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Transcript of Richard Moore

Date: February 27, 2020

Case: RLI Insurance Company -v- Nexus Services, Inc.

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Transcript of Richard Moore
Conducted on February 27, 2020

1 (1 to 4)

1	IN THE UNITED STATES DISTRICT COURT	1	A P P E A R A N C E S	3
2	FOR THE WESTERN DISTRICT OF VIRGINIA	2	ON BEHALF OF THE PLAINTIFF:	
3	Harrisonburg Division	3	VIVIAN KATSANTONIS, ESQUIRE	
4	-----x	4	CHRISTOPHER HARRIS, ESQUIRE	
5	RLI INSURANCE COMPANY, :	5	WATT, TIEDER, HOFFAR & FITZGERALD, LLP	
6	Plaintiff, :	6	1765 Greensboro Station Place	
7	v. : Case No.:	7	Suite 1000	
8	NEXUS SERVICES, INC., et al.: 5:18-cv-00066-MFU	8	McLean, VA 22102	
9	Defendants.:	9	703.749.1000	
10	-----x	10		
11		11	ON BEHALF OF THE DEFENDANTS:	
12	Video deposition of RICHARD MOORE	12	MARY DONNE PETERS, ESQUIRE	
13	McLean, Virginia	13	GORBY PETERS & ASSOCIATES, LLC	
14	Thursday, February 27, 2020	14	1175 Peachtree Street	
15	11:42 a.m.	15	Suite 1000	
16		16	Atlanta, GA 30361	
17	VOLUME 1	17	404.239.1150	
18		18		
19	Job No.: 288372	19		
20	Pages: 1 - 169	20		
21	Reported by: Judith E. Bellinger, RPR, CRR	21		
22		22		
1	Video deposition of RICHARD MOORE held at the	1	A P P E A R A N C E S C O N T I N U E D	4
2	offices of:	2		
3		3	CHRIS K. KOWALCZUK, ESQUIRE	
4		4	ATTORNEY AT LAW	
5	WATT, TIEDER, HOFFAR & FITZGERALD, LLP	5	P.O. Box 11971	
6	1765 Greensboro Station Place	6	Roanoke, VA 24022	
7	Suite 1000	7	540.345.0101	
8	McLean, VA 22102	8		
9	703.749.1000	9	JOHN M. SHOREMAN, ESQUIRE	
10		10	MCFADDEN & SHOREMAN	
11		11	1050 Connecticut Avenue, NW	
12		12	Suite 1000	
13	Pursuant to notice, before Judith E.	13	Washington, D.C. 20036	
14	Bellinger, Registered Professional Reporter,	14	202.772.3188	
15	Certified Realtime Reporter, and Notary Public in	15		
16	and for the Commonwealth of Virginia.	16	ALSO PRESENT:	
17		17	Jeremy Dineen, Videographer	
18		18	Mario Williams	
19		19	Micheal Donovan	
20		20	Aaron Houchens	
21		21	Henry Kass	
22		22		

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2 (5 to 8)

<p>5</p> <p>1 C O N T E N T S</p> <p>2 EXAMINATION OF RICHARD MOORE PAGE</p> <p>3 12</p> <p>4 E X H I B I T S</p> <p>5 (Attached to the transcript)</p> <p>6</p> <p>7 Moore Deposition Exhibits: PAGE</p> <p>8 Exhibit 1 Organizational chart, Bates No. 16</p> <p>9 NEXUS0106983</p> <p>10 Exhibit 2 Nexus Services, Inc. Profit and Loss 40</p> <p>11 January - June, 2018, Bates Nos.</p> <p>12 NEXUS0199649 -9656</p> <p>13 Exhibit 3 Nexus Services, Inc. Standard 49</p> <p>14 Operating Procedures Manual, Bates Nos.</p> <p>15 NEXUS0335712 - 5799</p> <p>16 Exhibit 4 Total Revenue By Month - 2017 Bates 72</p> <p>17 Nos. ESCM_NEXUS_014665</p> <p>18 Exhibit 5 Total Revenue By Month - 2017, Bates 79</p> <p>19 Nos. ESCM_NEXUS_014668</p> <p>20 Exhibit 6 Email from Hazzar Perdomo to Erik 124</p> <p>21 Schneider and Mike Donovan dated</p> <p>22 1/14/2019, Bates No. NEXUS0284027</p>	<p>7</p> <p>1 P R O C E E D I N G S</p> <p>2 THE VIDEOGRAPHER: Here begins</p> <p>3 Disc No. 1 in the videotaped deposition of Richard</p> <p>4 Moore in the matter of RLI Insurance Company v.</p> <p>5 Nexus Services, Inc., et al., in the U.S. District</p> <p>6 Court for the Western District of Virginia,</p> <p>7 Harrisonburg Virginia, Case No. 518-CV 00066MFU.</p> <p>8 Today's date is February 27th, 2020.</p> <p>9 The time on the video monitor is 11:42.</p> <p>10 The videographer today is Jeremy Dineen</p> <p>11 representing Planet Depos. This video deposition</p> <p>12 is taking place at 1765 Greensboro Station Place</p> <p>13 in McLean, Virginia.</p> <p>14 Would counsel please voice-identify</p> <p>15 themselves and state whom they represent?</p> <p>16 MS. KATSANTONIS: Vivian Katsantonis on</p> <p>17 behalf of RLI Insurance.</p> <p>18 MR. HARRIS: Christopher Harris on</p> <p>19 behalf of RLI Insurance.</p> <p>20 MS. KATSANTONIS: We have with us Henry</p> <p>21 Kass who's our consultant.</p> <p>22 MS. PETERS: Mary Donne Peters on</p>
<p>6</p> <p>1 E X H I B I T S C O N T I N U E D</p> <p>2</p> <p>3 Exhibit 7 Email from Richard Moore to Mike 138</p> <p>4 Donovan dated 8/19/2018, Bates Nos.</p> <p>5 NEXUS0210996, with attachments</p> <p>6 Exhibit 8 Nexus Services, Inc. (Old) Profit 147</p> <p>7 and Loss January - December 2018, Bates</p> <p>8 Nos. Eckert_Nexus_027806</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p>8</p> <p>1 behalf of Nexus Services, Inc., Libre by Nexus,</p> <p>2 Inc. and Homes by Nexus, Inc.</p> <p>3 MR. HOUCHENS: Aaron Houchens, pro hac,</p> <p>4 on behalf of Rich Moore.</p> <p>5 MR. WILLIAMS: Mario Williams here for</p> <p>6 John Shoreman and I'm probably going to make a</p> <p>7 notice of appearance on behalf of the Defendants.</p> <p>8 MR. HARRIS: We'd just like to note,</p> <p>9 Mr. Williams, that you made that representation</p> <p>10 yesterday. We're going to object to your</p> <p>11 appearance without entering a notice of</p> <p>12 appearance. And yesterday we asked you not to</p> <p>13 speak on the record, act as counsel in this</p> <p>14 deposition, and I'm going to renew that request</p> <p>15 today.</p> <p>16 MR. WILLIAMS: Okay. Let me ask you</p> <p>17 something. Do you have a notice of appearance or</p> <p>18 is he a consultant?</p> <p>19 MR. HARRIS: He's a consultant. But</p> <p>20 he's not going to be speaking today.</p> <p>21 MR. WILLIAMS: But does he have a</p> <p>22 notice of appearance on the record?</p>

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3 (9 to 12)

<p>9</p> <p>1 MR. HARRIS: No. He's not a --</p> <p>2 MR. WILLIAMS: So are we objecting to</p> <p>3 him being in the room?</p> <p>4 MR. HARRIS: No. You're an attorney</p> <p>5 who is speaking on the record and interrupting the</p> <p>6 discovery process and you should be subject to</p> <p>7 sanctions if you're improperly interfering with</p> <p>8 the deposition. You should enter an appearance.</p> <p>9 MR. WILLIAMS: But what I'm asking is</p> <p>10 that do you have somebody in the room that's not</p> <p>11 on record?</p> <p>12 MS. KATSANTONIS: We've noted his</p> <p>13 appearance as a consultant. He's not required to</p> <p>14 file a notice of appearance with the court.</p> <p>15 MR. WILLIAMS: All right.</p> <p>16 THE VIDEOGRAPHER: The court reporter</p> <p>17 today is Judy Bellinger representing Planet Depos.</p> <p>18 Would the reporter please swear in the witness.</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p>11</p> <p>1 that time charged against the witness. We should</p> <p>2 only be counting time for the time that the</p> <p>3 witness is being examined.</p> <p>4 MS. PETERS: I don't understand what</p> <p>5 you just said.</p> <p>6 MR. HARRIS: Well, we're going to take</p> <p>7 up time now, because your attorneys are outside</p> <p>8 the room, to enter their appearances on the record</p> <p>9 and I don't want that time to be charged against</p> <p>10 the seven hours of examination against Mr. Moore</p> <p>11 since you guys have held us to a very tight</p> <p>12 seven-hour deadline.</p> <p>13 MR. KOWALCZUK: I'm sorry. We're back.</p> <p>14 MS. KATSANTONIS: Yep, thank you.</p> <p>15 MS. PETERS: We're on the record.</p> <p>16 We're on the video record. The clock has started.</p> <p>17 MS. KATSANTONIS: All right. Have</p> <p>18 they --</p> <p>19 MR. HARRIS: No, the clock has not</p> <p>20 started.</p> <p>21 MS. KATSANTONIS: No, the clock has not</p> <p>22 started because we are entering the names of the</p>
<p>10</p> <p>1 Whereupon,</p> <p>2 RICHARD MOORE,</p> <p>3 being first duly sworn or affirmed to testify to</p> <p>4 the truth, the whole truth, and nothing but the</p> <p>5 truth, was examined and testified as follows:</p> <p>6 MS. PETERS: Ms. Katsantonis, as a</p> <p>7 preliminary matter, obviously we have a protective</p> <p>8 order entered into this case; by allowing the</p> <p>9 witness to testify and without interrupting your</p> <p>10 deposition flow, we want to note that we reserve</p> <p>11 the right to designate portions of this transcript</p> <p>12 as confidential pursuant to the protective order,</p> <p>13 as necessary, and that we will do so at the</p> <p>14 conclusion of the deposition so that we do not</p> <p>15 interfere or impede your questioning.</p> <p>16 MS. KATSANTONIS: Thank you. All</p> <p>17 right.</p> <p>18 MR. HARRIS: One more matter for the</p> <p>19 record. I understand we're going to have more</p> <p>20 appearances from Nexus counsel who's not in the</p> <p>21 room right now. We've been held to a very tight</p> <p>22 just clock in our timing and I don't want to have</p>	<p>12</p> <p>1 attorneys who just walked into the room.</p> <p>2 MS. PETERS: All right.</p> <p>3 MR. SHOREMAN: Just me. Am I holding</p> <p>4 you up?</p> <p>5 MS. KATSANTONIS: Yes, if you could</p> <p>6 just voice.</p> <p>7 MR. SHOREMAN: John Shoreman on behalf</p> <p>8 of Defendants here with my associate attorney</p> <p>9 Mario Williams who will soon enter an appearance</p> <p>10 in the case.</p> <p>11 MR. KOWALCZUK: Chris Kowalczuk on</p> <p>12 behalf of the Defendants.</p> <p>13 MS. KATSANTONIS: And Mr. Donovan is</p> <p>14 present as the corporate representative, I assume.</p> <p>15 MR. SHOREMAN: Yes.</p> <p>16 MS. KATSANTONIS: Okay. So we can</p> <p>17 begin now as far as our time.</p> <p>18 DIRECT EXAMINATION BY COUNSEL FOR THE PLAINTIFF</p> <p>19 BY MS. KATSANTONIS:</p> <p>20 Q All right. Mr. Moore, can you please</p> <p>21 state your name and address for the record.</p> <p>22 A Richard Everette Moore, 47 South</p>

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4 (13 to 16)

<p>13</p> <p>1 Windsong Court, Fishersville, Virginia, 22939.</p> <p>2 Q Mr. Moore, have you ever gone by</p> <p>3 another name?</p> <p>4 A No.</p> <p>5 Q Okay.</p> <p>6 A I mean maybe like Rich, but, yeah.</p> <p>7 Q Okay. And just briefly what is your</p> <p>8 level of educational background?</p> <p>9 A Sure. In '96 I left high school, got</p> <p>10 my GED and then I went to college. I'm still</p> <p>11 actually enrolled in college now through Walden</p> <p>12 University.</p> <p>13 Q Okay. All right. And when -- prior to</p> <p>14 your roles at Nexus, can you give me a brief</p> <p>15 background of what jobs you had?</p> <p>16 A Sure. A brief background I worked in</p> <p>17 retail, I worked in lobbying as well, I did some</p> <p>18 political consulting as well.</p> <p>19 Q Okay. And did you work in the bail</p> <p>20 bond area prior to the formation of Nexus?</p> <p>21 A Not as a bail bondsman, no. But I did</p> <p>22 lobbying. I deal with criminal justice issues</p>	<p>15</p> <p>1 A A lot of entities. Can you be more</p> <p>2 specific in what we're talking about?</p> <p>3 Q Well, the entities that you were</p> <p>4 affiliated with that you --</p> <p>5 A That were Nexus related?</p> <p>6 Q Yes?</p> <p>7 A Nexus Programs.</p> <p>8 Q Okay.</p> <p>9 A And then there was the Criminal Justice</p> <p>10 Reform Coalition before that.</p> <p>11 Q Okay. And what was your position with</p> <p>12 Nexus Programs?</p> <p>13 A I guess I was a vice president at that</p> <p>14 point with it.</p> <p>15 Q Okay. And do you know what years Nexus</p> <p>16 programs operated?</p> <p>17 A No, I do not.</p> <p>18 Q Okay. And what about this coalition</p> <p>19 you mentioned?</p> <p>20 A That would have been, I guess early,</p> <p>21 maybe 2011, 2012. I can't give you an exact date,</p> <p>22 unfortunately.</p>
<p>14</p> <p>1 including bail bonding.</p> <p>2 Q Okay. And so with -- as a lobbyist?</p> <p>3 A Yes.</p> <p>4 Q Okay. What about as far as any role</p> <p>5 and responsibility in GPS tracking devices for</p> <p>6 criminals or...</p> <p>7 MS. PETERS: Object to form.</p> <p>8 A When Nexus was smaller, we did some GPS</p> <p>9 tracking for criminals, but that was it. We also</p> <p>10 had some offender reentry programs like online</p> <p>11 programs we could offer people, stuff like that.</p> <p>12 Q And what time frame would that have</p> <p>13 been, roughly?</p> <p>14 A I would say prior to 2014.</p> <p>15 Q Okay. For a year or two years?</p> <p>16 Just...</p> <p>17 A I honestly wouldn't be able to tell you</p> <p>18 the exact time frame.</p> <p>19 Q Okay. And what entity existed prior to</p> <p>20 Nexus Services, Inc.?</p> <p>21 MS. PETERS: Object to the form to the</p> <p>22 extent it calls for a legal conclusion.</p>	<p>16</p> <p>1 Q Okay. And Nexus Services, Inc., was</p> <p>2 formed on or about December 30th, 2013; is that</p> <p>3 correct?</p> <p>4 A I don't have the article in front of me</p> <p>5 so I can't verify exact date.</p> <p>6 Q Okay. I'm going to just hand you -- we</p> <p>7 looked at this yesterday with Mr. Donovan -- an</p> <p>8 organizational chart.</p> <p>9 MS. KATSANTONIS: And mark this.</p> <p>10 A To clarify, when you throw it over</p> <p>11 there I give it to her, right?</p> <p>12 Q Yeah, I'm sorry.</p> <p>13 A I want to make sure I'm doing my part.</p> <p>14 Q I'm only throwing it because I can't</p> <p>15 reach.</p> <p>16 A I understand. I'm here to help.</p> <p>17 Q Thank you.</p> <p>18 (Moore Exhibit 1 marked for</p> <p>19 identification and attached to the transcript.)</p> <p>20 A Do you want me to show this to my</p> <p>21 counsel?</p> <p>22 Q No, she already has a copy from</p>

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5 (17 to 20)

<p>17</p> <p>1 yesterday.</p> <p>2 A Okay.</p> <p>3 MS. PETERS: I'll pull my copies from</p> <p>4 yesterday.</p> <p>5 Q So in reviewing this organizational</p> <p>6 chart that was provided by Nexus in this</p> <p>7 litigation, you can take a few minutes to review</p> <p>8 it.</p> <p>9 Does this accurately reflect your</p> <p>10 understanding of Nexus Services and the entities</p> <p>11 it owns?</p> <p>12 MS. PETERS: Object to the form of the</p> <p>13 question to the -- what time frame are you</p> <p>14 referring to? This document was produced to you</p> <p>15 over two years ago, as far as I know.</p> <p>16 A So without knowing the date that this</p> <p>17 was produced, I would not be able to tell you if</p> <p>18 this is accurate or not.</p> <p>19 Q Well, as of today, is it accurate?</p> <p>20 A As of today, it is not accurate.</p> <p>21 Q Okay. Tell me why.</p> <p>22 A Because Nexus retail brand was</p>	<p>19</p> <p>1 A I would say that I believe that Secure</p> <p>2 by Nexus is a dormant company but I think</p> <p>3 everything else is -- is accurate.</p> <p>4 Q Are there other companies and entities</p> <p>5 for which Nexus Services has an ownership interest</p> <p>6 that's not reflected on this sheet?</p> <p>7 A No.</p> <p>8 Q Are there any other companies or</p> <p>9 entities for which these other wholly owned</p> <p>10 subsidiaries have an interest that are not listed?</p> <p>11 MS. PETERS: Object to form.</p> <p>12 Can you repeat the question, madam</p> <p>13 court reporter.</p> <p>14 (The requested text was read by the</p> <p>15 reporter as follows: "Are there any other</p> <p>16 companies or entities for which these other wholly</p> <p>17 owned subsidiaries have an interest that are not</p> <p>18 listed?")</p> <p>19 MS. PETERS: Object to form.</p> <p>20 A No.</p> <p>21 Q Okay. There's another company called</p> <p>22 Gamer Oasis.</p>
<p>18</p> <p>1 dissolved.</p> <p>2 Q And when was that dissolved?</p> <p>3 A Unfortunately I don't have the date.</p> <p>4 Q Was it within the last year, the last</p> <p>5 two years?</p> <p>6 A It would have been, I believe, in 2018,</p> <p>7 at the end of 2018.</p> <p>8 Q Okay.</p> <p>9 A And then I do not -- Nexus</p> <p>10 Investigations Security, I am unsure how that -- I</p> <p>11 have nothing to do with that at all. I'm unsure</p> <p>12 of how that fits into anything.</p> <p>13 Q Okay. Is there any other errors that</p> <p>14 you note?</p> <p>15 MS. PETERS: Object to form in that you</p> <p>16 are calling them "errors." This document was</p> <p>17 accurate when it was created.</p> <p>18 MS. KATSANTONIS: That's representation</p> <p>19 from counsel.</p> <p>20 Q Is there anything, sitting here today,</p> <p>21 that you believe is inaccurate?</p> <p>22 MS. PETERS: Object to form.</p>	<p>20</p> <p>1 A Yes.</p> <p>2 Q And who owns Gamer Oasis?</p> <p>3 A Entlest Brands.</p> <p>4 Q And who owns Entlest Brands?</p> <p>5 A I do.</p> <p>6 Q And when was Entlest Brands created?</p> <p>7 A In 2018.</p> <p>8 Q Okay. And are you the 100 percent</p> <p>9 owner of Entlest?</p> <p>10 A Yes.</p> <p>11 Q Okay. And from where does Entlest</p> <p>12 derive its revenue?</p> <p>13 A Well, with all due respect, you just</p> <p>14 asked me about a video game store, Gamer Oasis.</p> <p>15 So that would be where Entlest derives revenue</p> <p>16 from.</p> <p>17 Q Okay. And then the Gamer Oasis is a</p> <p>18 video store.</p> <p>19 A Video game store.</p> <p>20 Q Uh-huh. And how was the video game</p> <p>21 store purchased?</p> <p>22 A It was purchased from Nexus.</p>

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6 (21 to 24)

<p>21</p> <p>1 Q So Nexus owned Gamer Oasis?</p> <p>2 A Under Nexus retail brand Nexus bought</p> <p>3 8bit Oasis for \$5,000 and then I -- when Nexus</p> <p>4 made a decision to either sell it or to close it,</p> <p>5 I made the decision to buy it.</p> <p>6 Q And did you use personal funds to buy</p> <p>7 it?</p> <p>8 A Yes.</p> <p>9 Q Did you take any loan funds from Nexus</p> <p>10 Services to purchase it?</p> <p>11 A No. I made monthly payments to Nexus</p> <p>12 for it.</p> <p>13 Q So you -- so Nexus financed the</p> <p>14 purchase of it through you?</p> <p>15 MS. PETERS: Object to form.</p> <p>16 A It wasn't financing. I made monthly</p> <p>17 payments to Nexus to pay it off.</p> <p>18 Q Okay. How much were your monthly</p> <p>19 payments?</p> <p>20 A 10,000 down and then 5,000 a month.</p> <p>21 Q For how many?</p> <p>22 A I don't have exact purchase price of</p>	<p>23</p> <p>1 A Yes.</p> <p>2 Q Okay. And so Nexus --</p> <p>3 MS. KATSANTONIS: So I would ask for a</p> <p>4 copy of that. Mary Donne.</p> <p>5 MS. PETERS: I'd ask you to put it in</p> <p>6 writing, please.</p> <p>7 MS. KATSANTONIS: I'm asking you right</p> <p>8 now.</p> <p>9 MS. PETERS: I'm telling you --</p> <p>10 MS. KATSANTONIS: You're taking notes,</p> <p>11 you can write it down.</p> <p>12 MS. PETERS: I'm not your personal</p> <p>13 secretary.</p> <p>14 MS. KATSANTONIS: Okay. You can</p> <p>15 maintain that position. We'll see how --</p> <p>16 MS. PETERS: I would ask you as a</p> <p>17 professional courtesy to please put any request in</p> <p>18 writing in a letter to Mr. Shoreman copying all</p> <p>19 counsel so that we may address it in a timely --</p> <p>20 MS. KATSANTONIS: I have done that in</p> <p>21 discovery requests that you just haven't answered.</p> <p>22 MS. PETERS: I disagree.</p>
<p>22</p> <p>1 it.</p> <p>2 Q You don't recall the purchase price?</p> <p>3 A No. I believe it was \$30,000.</p> <p>4 Q Okay. Is there a sales contract?</p> <p>5 A I'm sure there would have been, yes.</p> <p>6 Q Who would be the parties to that sales</p> <p>7 contract?</p> <p>8 A I would have signed on behalf of --</p> <p>9 MS. PETERS: Object to form. Which</p> <p>10 sales contract? He's identified two different</p> <p>11 sales transactions.</p> <p>12 MS. KATSANTONIS: No, he has not.</p> <p>13 A Actually, I have. Do you mean the</p> <p>14 purchase by Nexus or the purchase where I</p> <p>15 purchased it from Nexus?</p> <p>16 Q Your purchase from Nexus.</p> <p>17 A I would have signed for Entlest and I</p> <p>18 don't remember who signed for -- for Nexus -- I</p> <p>19 would have signed for Entlest. I don't know who</p> <p>20 signed for Nexus.</p> <p>21 Q So there is a contract is what you're</p> <p>22 saying?</p>	<p>24</p> <p>1 MS. KATSANTONIS: Okay. All right.</p> <p>2 Let's move on.</p> <p>3 Q Are there any other acquisitions or</p> <p>4 purchases you've made from any of the entities</p> <p>5 listed on this sheet?</p> <p>6 A No.</p> <p>7 Q Okay. What, if any, interest do you</p> <p>8 have related to Dog the Bounty Hunter?</p> <p>9 [REDACTED]</p> <p>10 [REDACTED] It</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED] And before [REDACTED]</p> <p>15 [REDACTED] she asked me to help Dog. We met in May</p> <p>16 before, last year, and Beth asked -- [REDACTED]</p> <p>17 [REDACTED] and asked me to, you know, just do</p> <p>18 what you can to help him stay straight and get him</p> <p>19 where he needs to be and help him survive.</p> <p>20 Q Do you have -- and I'm sorry, I didn't</p> <p>21 mean to get into the personal issues. But I</p> <p>22 wanted to know did you have any business</p>

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7 (25 to 28)

<p>25</p> <p>1 relationship with Dog the Bounty Hunter?</p> <p>2 A Yes.</p> <p>3 Q And what is the business relationship?</p> <p>4 A I—</p> <p>5 MS. PETERS: Object to form. I want to</p> <p>6 make sure that we designate the entire portion of</p> <p>7 that last question/answer session because he's</p> <p>8 going into personal medical histories of close</p> <p>9 friends.</p> <p>10 MS. KATSANTONIS: That's fine.</p> <p>11 MS. PETERS: I should have objected so</p> <p>12 we need to make sure that that is noted for the</p> <p>13 video and electronic deposition transcript.</p> <p>14 Q Sorry. Anyway, can you tell me the</p> <p>15 business relationship?</p> <p>16 A Sure. I helped facilitate what's</p> <p>17 called The Bounty Store, which is his -- the fan</p> <p>18 merchandise side of it. I also serve a role as</p> <p>19 his personal advisor on many different things.</p> <p>20 Again, I'm also the voice of reason with him.</p> <p>21 Beth and Dog owned a --</p> <p>22 MS. PETERS: Objection. I'm going to</p>	<p>27</p> <p>1 friend then it would be a business expense.</p> <p>2 Q Have you -- you said usually but are</p> <p>3 there expenses that you've incurred related to</p> <p>4 that business relationship that have been paid by</p> <p>5 Nexus Services?</p> <p>6 A No.</p> <p>7 MS. PETERS: Object to form.</p> <p>8 Q Okay. Is your interest through -- with</p> <p>9 regard to the Dog the Bounty Hunter businesses, is</p> <p>10 that through you personally or through Entlest?</p> <p>11 A The Bounty Store side of it is through</p> <p>12 Entlest, but the other side of it is personal.</p> <p>13 Q All right. Who is your -- what is your</p> <p>14 position at Nexus?</p> <p>15 A Executive vice president.</p> <p>16 Q Okay. And who signs your paycheck?</p> <p>17 A A computer does.</p> <p>18 Q Okay. Out of what account is your</p> <p>19 paycheck?</p> <p>20 A The account number or...</p> <p>21 Q Well, just is it a Nexus account? Is</p> <p>22 it a Libre account?</p>
<p>26</p> <p>1 ask the witness to just answer business-related</p> <p>2 questions.</p> <p>3 THE WITNESS: Sure. Okay.</p> <p>4 A Beth and Dog owned a production company</p> <p>5 which Dog has ceded part of the ownership to me.</p> <p>6 Q Okay. And have you purchased -- so did</p> <p>7 you make purchase transactions with them?</p> <p>8 A What do you -- I'm sorry.</p> <p>9 Q You just said Dog ceded some of the</p> <p>10 business operation to you. So I'm trying to</p> <p>11 understand. Did you make a purchase of part of a</p> <p>12 business or anything like that?</p> <p>13 A No, I did not.</p> <p>14 Q Okay. And do -- on these business</p> <p>15 ventures with Dog the Bounty Hunter, are your</p> <p>16 transportation and lodging and other expenses paid</p> <p>17 by Nexus Services?</p> <p>18 A Usually not. If I'm visiting him in</p> <p>19 Denver and I'm visiting the office in Denver, I</p> <p>20 may go have dinner with him. But it's not</p> <p>21 Nexus -- the dinner's on Nexus expense but if I'm</p> <p>22 doing an office visit and I happen to visit a</p>	<p>28</p> <p>1 A It's a Nexus Services account.</p> <p>2 Q Okay. And the Nexus Services account</p> <p>3 is funded through revenue received by Libre by</p> <p>4 Nexus; is that correct?</p> <p>5 A By several -- by several different</p> <p>6 entities, yes, including Homes.</p> <p>7 Q Okay. Is there anyone else besides</p> <p>8 Libre by Nexus and Homes that funds that operating</p> <p>9 account?</p> <p>10 A No.</p> <p>11 Q You said several entities. Is there</p> <p>12 other entities that fund revenues?</p> <p>13 MS. PETERS: Object to form.</p> <p>14 Imprecise.</p> <p>15 A I would say that looking at your chart,</p> <p>16 or this chart, if there's rental revenue from</p> <p>17 Nexus properties or One Fish, Two Fish, that some</p> <p>18 of that -- there's payroll costs involved in that,</p> <p>19 like we have Homes employees who maintain the</p> <p>20 properties, that it's possible that it came from</p> <p>21 that as well.</p> <p>22 Q Is all payroll paid from Nexus Services</p>

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8 (29 to 32)

<p>29</p> <p>1 accounts?</p> <p>2 A Yes.</p> <p>3 Q And that would be all payroll for Libre</p> <p>4 by Nexus, Homes, One Fish, Two Fish, correct?</p> <p>5 A Yes.</p> <p>6 Q Okay. Have you taken out loans from</p> <p>7 Nexus or Libre?</p> <p>8 MS. PETERS: Object to form.</p> <p>9 A Years ago I believe that -- I wouldn't</p> <p>10 characterize them as loans, I would say that</p> <p>11 things were billed to executive and then were paid</p> <p>12 back to the company.</p> <p>13 Q Okay. They were billed to executive,</p> <p>14 meaning that you would keep track of them under</p> <p>15 the executive --</p> <p>16 A Our finance team had an executive</p> <p>17 section in QuickBooks that they put stuff in.</p> <p>18 Q And then you were charged for that down</p> <p>19 the road?</p> <p>20 A Yes.</p> <p>21 Q Okay. And were those loans or expenses</p> <p>22 distinguished between -- anything between -- that</p>	<p>31</p> <p>1 A I interact with all employees.</p> <p>2 Occasionally client issues, but very, very rarely.</p> <p>3 I also make sure that the offices are maintained</p> <p>4 properly and work with landlords and vendors.</p> <p>5 Q Okay. What about -- what is your title</p> <p>6 at Homes?</p> <p>7 MS. PETERS: Objection. Asked and</p> <p>8 answered.</p> <p>9 A I guess in context, my title would be</p> <p>10 the same.</p> <p>11 Q Okay. And with regard to Homes, what</p> <p>12 is your responsibilities?</p> <p>13 A I talk to them. I work with the</p> <p>14 property managers and I guess that would be really</p> <p>15 it.</p> <p>16 Q Okay. With regard to Gamer Oasis when</p> <p>17 you purchased that, did you pay by check or wire?</p> <p>18 A By check.</p> <p>19 MS. PETERS: Object to form. Are you</p> <p>20 referring to the first or second transaction?</p> <p>21 Q You just said by check. Which</p> <p>22 transaction were you referencing?</p>
<p>30</p> <p>1 you were doing on behalf of Nexus verse Libre?</p> <p>2 MS. PETERS: Object to form. Vague.</p> <p>3 A I don't know how they would classify</p> <p>4 them in accounting.</p> <p>5 Q All right. And what is your title at</p> <p>6 Libre by Nexus?</p> <p>7 A Executive vice president.</p> <p>8 Q Okay. Generally what is your role and</p> <p>9 responsibility as executive vice president of</p> <p>10 Nexus?</p> <p>11 MS. PETERS: Object to form.</p> <p>12 A All the employees, with the exception</p> <p>13 of Mike Donovan, report to me.</p> <p>14 Q Okay.</p> <p>15 A So my largest role is to deal with all</p> <p>16 field issues and vendors.</p> <p>17 Q Okay. And what about with regard to</p> <p>18 Libre by Nexus? What is your role and</p> <p>19 responsibility as far as -- in your capacity as</p> <p>20 executive vice president?</p> <p>21 MS. PETERS: Object to form.</p> <p>22 Overbroad.</p>	<p>32</p> <p>1 A When I purchased -- because at the time</p> <p>2 of the purchase -- I purchased Gamer Oasis from</p> <p>3 Nexus by check.</p> <p>4 Q Okay. And do you know which -- who do</p> <p>5 you direct payment to?</p> <p>6 MS. PETERS: Object to form.</p> <p>7 A Nexus Services.</p> <p>8 Q Okay. And do you know into which</p> <p>9 account the payment went?</p> <p>10 A No.</p> <p>11 Q Who would know that?</p> <p>12 MS. PETERS: Object to form. Calls for</p> <p>13 speculation.</p> <p>14 A I could find out and get back to you on</p> <p>15 that.</p> <p>16 Q Okay. Thank you.</p> <p>17 Do you have any way to differentiate</p> <p>18 the work hours you work for Nexus verse Libre?</p> <p>19 MS. PETERS: Object to form.</p> <p>20 A Can you be more specific?</p> <p>21 Q Right. Do you keep track of any of the</p> <p>22 hours you work for Libre versus hours you work for</p>

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9 (33 to 36)

33
1 Nexus?
2 **A Well, I would say I'm a salaried**
3 **employees that work probably a hundred hours a**
4 **week. So I would say that I can guarantee that**
5 **under -- under federal law I probably work**
6 **full-time at both positions so I've never bothered**
7 **to track the time.**
8 Q Okay. Is Homes run by Tim Donovan?
9 MS. PETERS: Object to form.
10 **A Tim Donovan manages the facilities for**
11 **Homes.**
12 Q All of the facilities?
13 **A Yes. And --**
14 MS. PETERS: Object. Object to form.
15 **A And for Nexus as well.**
16 Q Okay. Are you involved in real estate
17 transactions with Homes?
18 MS. PETERS: Object to form.
19 **A I sign paperwork.**
20 Q What paperwork?
21 **A If we are purchasing property, then --**
22 **or even, I guess, property insurance, I would sign**

34
1 **the paperwork.**
2 Q And are all of the homes -- well, who
3 has title to the homes?
4 MS. PETERS: Object to form to the
5 extent it calls for a legal conclusion.
6 **A What do you mean who has title of the**
7 **homes?**
8 Q Are the homes -- who are the -- right.
9 Right.
10 Homes by Nexus -- there's properties
11 that are listed under Homes by Nexus, Inc.; is
12 that right?
13 **A No.**
14 Q Okay.
15 MS. PETERS: Object to form.
16 Q So Homes by Nexus, Inc., where are the
17 properties -- who are -- the properties are the
18 assets of Nexus Services; is that correct?
19 MS. PETERS: Object to form. Object to
20 form.
21 **A No.**
22 Q They're not assets of Nexus?

35
1 **A The properties are the asset to the**
2 **LLCs.**
3 Q Which LLC?
4 MS. PETERS: Object to form.
5 **A Nexus Properties, One Fish, Two Fish,**
6 **and Nexus Commercial Ventures.**
7 Q Okay. And are they the only three LLCs
8 that own the properties?
9 MS. PETERS: Object to form.
10 **A I believe so.**
11 Q Did Gentry Locke create a series of
12 LLCs for the properties?
13 **A They did, but I'm not sure if they are**
14 **transferred over or not to the LLCs.**
15 Q Okay. So as of now, today, you believe
16 that the properties remain titled to Nexus
17 Properties LLC, One Fish, Two Fish, LLC or Nexus
18 Commercial Ventures, LLC?
19 MS. PETERS: Object to form.
20 **A I don't recall any paperwork that says**
21 **otherwise.**
22 Q So to the best of your knowledge they

36
1 are maintained by those three LLCs?
2 MS. PETERS: Object to form.
3 **A Yes, ma'am.**
4 Q All right. And -- it was represented
5 in this litigation that Nexus was making an effort
6 to break out Homes into its own separate
7 QuickBooks.
8 Are you familiar with that?
9 **A Yes.**
10 Q Okay. When was that process initiated?
11 **A I do not recall the date.**
12 Q Can you give me an approximate time
13 frame?
14 **A I cannot. I do know that it has been**
15 **done.**
16 Q Okay. And what -- what was done to
17 separate Homes? What transactions were separated
18 out?
19 **A I have no idea.**
20 Q Okay. Who did the trans -- the legwork
21 or, you know, the actual transitioning of entries
22 from Nexus Services into a separate Homes

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10 (37 to 40)

<p>37</p> <p>1 QuickBooks?</p> <p>2 A I would not be able to answer that</p> <p>3 question as I don't know who actually transferred</p> <p>4 over or separated it out. I know who maintains it</p> <p>5 now but I don't know who – I don't – I wasn't –</p> <p>6 Q Who directed it?</p> <p>7 MS. PETERS: Object to form.</p> <p>8 Q Who directed that it be separated out?</p> <p>9 MS. PETERS: You've interrupted the</p> <p>10 witness.</p> <p>11 MS. KATSANTONIS: I'm sorry.</p> <p>12 A I directed that it be separated out.</p> <p>13 Q Okay. And who did you direct to do</p> <p>14 that work?</p> <p>15 A I would have spoke to the finance team</p> <p>16 at the time about it.</p> <p>17 Q Okay. And who do you remember speaking</p> <p>18 to?</p> <p>19 A I don't remember who it was at the</p> <p>20 time.</p> <p>21 Q So your testimony is you can't recall</p> <p>22 whether that was done in 2019 or 2018?</p>	<p>39</p> <p>1 properties that are listed there, have you</p> <p>2 personally been involved in any real estate</p> <p>3 transaction related to those properties in the</p> <p>4 last three years?</p> <p>5 MS. PETERS: Object to form.</p> <p>6 A I would have to see the list.</p> <p>7 Q Okay. I can show you that.</p> <p>8 MS. PETERS: While she's gathering the</p> <p>9 list, I'd like counsel to -- never mind. I'll</p> <p>10 withdraw.</p> <p>11 I remembered my question and I want to</p> <p>12 wait until you have your documents in front of</p> <p>13 you, Ms. Katsantonis. I would ask that counsel</p> <p>14 clarify when she says "have you personally"</p> <p>15 whether you mean you personally as an officer of</p> <p>16 the company or "you" separately, separate from</p> <p>17 being an officer of the company were involved in a</p> <p>18 transaction. Because he's testified earlier that</p> <p>19 he would have had some responsibilities for Homes</p> <p>20 as a --</p> <p>21 MS. KATSANTONIS: You're testifying --</p> <p>22 MS. PETERS: -- an officer.</p>
<p>38</p> <p>1 MS. PETERS: Object to form.</p> <p>2 A No.</p> <p>3 Q All right. Have you personally been a</p> <p>4 party to any real estate transactions involving</p> <p>5 any of the real estate assets that have been</p> <p>6 listed in Nexus Services financial statements over</p> <p>7 the past three years?</p> <p>8 MS. PETERS: Object to form to the</p> <p>9 extent it calls for a legal conclusion.</p> <p>10 A Can you clarify your question?</p> <p>11 Q Sure. I mean, I don't know what you</p> <p>12 need clarified. But on Nexus Services' balance --</p> <p>13 A Well, let's pretend I'm not a lawyer,</p> <p>14 ma'am.</p> <p>15 Q No, no, I'm sorry. So -- and I</p> <p>16 apologize, I didn't mean it in that way.</p> <p>17 But you know that all the properties</p> <p>18 are listed in Nexus Services' profit and loss</p> <p>19 statements or in the balance sheets, right?</p> <p>20 MS. PETERS: Object to form.</p> <p>21 A Yes.</p> <p>22 Q Okay. And so with regard to the</p>	<p>40</p> <p>1 MS. KATSANTONIS: Okay. You're</p> <p>2 testifying now, Ms. Donne Peters. I'd ask that</p> <p>3 you not do that.</p> <p>4 Q Here's a document that has been</p> <p>5 presented to us as a profit and loss statement</p> <p>6 from January through June of 2018 as an example.</p> <p>7 A Do I need to give it to her first?</p> <p>8 Q Yes, sorry. Thank you.</p> <p>9 A I'm learning my role.</p> <p>10 (Moore Exhibit 2 marked for</p> <p>11 identification and attached to the transcript.)</p> <p>12 A I can look at it now?</p> <p>13 MS. PETERS: I'm going to raise an</p> <p>14 objection. These documents were produced any</p> <p>15 Eckert Seamans with certain disclaimers,</p> <p>16 Ms. Katsantonis, in production.</p> <p>17 MS. KATSANTONIS: Okay.</p> <p>18 Ms. Donne Peters, you said you -- you know,</p> <p>19 just --</p> <p>20 Q All right. So this is a document --</p> <p>21 MS. PETERS: We would also designate it</p> <p>22 as confidential. I apologize.</p>

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11 (41 to 44)

<p>41</p> <p>1 MS. KATSANTONIS: You said you were</p> <p>2 going to wait until the end of the deposition to</p> <p>3 do that. So I'd appreciate if you wouldn't</p> <p>4 interrupt my deposition.</p> <p>5 MS. PETERS: I apologize.</p> <p>6 Q So looking at a profit and loss</p> <p>7 statement January through June 2018 that's been</p> <p>8 provided by Nexus in this litigation, it lists a</p> <p>9 series of properties on the first and a little bit</p> <p>10 on the second page?</p> <p>11 A Okay. Can you repeat the question of</p> <p>12 what I'm looking for?</p> <p>13 Q Sure.</p> <p>14 So my question is have you been</p> <p>15 involved personally, have you been a party to any</p> <p>16 real estate transactions involving any of these</p> <p>17 real estate assets that are listed in Nexus</p> <p>18 Services' financial statement?</p> <p>19 MS. PETERS: Object to the form of the</p> <p>20 question.</p> <p>21 A Can I ask a clarifying question before</p> <p>22 I review this?</p>	<p>43</p> <p>1 a -- well, let me look at this one more time.</p> <p>2 I believe it is likely that on most of</p> <p>3 these properties I would have signed paperwork</p> <p>4 involving the closing of the purchase of the</p> <p>5 properties.</p> <p>6 Q And what would you have signed as what?</p> <p>7 In what capacity?</p> <p>8 A I would not be able to recall. It</p> <p>9 would -- it would -- I don't know the exact title</p> <p>10 it would be. It would be, I think as a member or</p> <p>11 manager or something. Because these would be</p> <p>12 names of the LLCs and I don't recall, like, what</p> <p>13 you put down after you sign your name for it.</p> <p>14 Q Okay. That would be pursuant to your</p> <p>15 interest in one of the LLCs as opposed to Nexus</p> <p>16 Services?</p> <p>17 A Yes.</p> <p>18 Q Okay. And what about personally, in</p> <p>19 your personal capacity?</p> <p>20 A I would say from a personal interest I</p> <p>21 do not see any -- from personal interest I -- can</p> <p>22 you please clarify the question because I really</p>
<p>42</p> <p>1 Q Sure.</p> <p>2 A So from point of reference, can you</p> <p>3 define what you mean by me being a "party" to the</p> <p>4 transaction.</p> <p>5 Q Have you been a buyer? Have you been a</p> <p>6 seller? Have you signed deeds of trust? Have you</p> <p>7 obtained income from them, are you a lessor or</p> <p>8 lessee on any of the properties?</p> <p>9 MS. PETERS: Again, since the witness</p> <p>10 is a layperson, I would ask you to designate</p> <p>11 whether you're talking about him as a private</p> <p>12 individual or as a -- an officer in the company.</p> <p>13 MS. KATSANTONIS: Either.</p> <p>14 MS. PETERS: Then I would caution the</p> <p>15 witness to specify which.</p> <p>16 MS. KATSANTONIS: Sure.</p> <p>17 A Can you please specify? Do you mean in</p> <p>18 the capacity of the company or as capacity as the</p> <p>19 person?</p> <p>20 Q Either one. And you can tell me which</p> <p>21 one.</p> <p>22 A I believe -- well, I can tell you as</p>	<p>44</p> <p>1 am confused?</p> <p>2 Q Well, are you -- do you -- have you</p> <p>3 personally signed any of these documents as an</p> <p>4 owner of the property? Have you signed any</p> <p>5 documents as a -- you know, that you're leasing</p> <p>6 any of the properties? Is there anything that</p> <p>7 you've signed with regard to any of these specific</p> <p>8 properties?</p> <p>9 A Well --</p> <p>10 MS. PETERS: Object to the form of the</p> <p>11 question. He's already testified that he signed</p> <p>12 as a manager member or. He didn't remember which.</p> <p>13 MS. KATSANTONIS: Right. And now I'm</p> <p>14 asking him personally not as a member or manager.</p> <p>15 I'm asking him a separate question now.</p> <p>16 A So do I personally live in one of these</p> <p>17 properties?</p> <p>18 Q Well, do you personally have an</p> <p>19 ownership in any of the properties, personally?</p> <p>20 A Okay. But if I --</p> <p>21 Q In other words, are any of the</p> <p>22 properties -- are you listed as having an</p>

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12 (45 to 48)

<p>45</p> <p>1 ownership interest in the properties?</p> <p>2 MS. PETERS: I'm going to object to the</p> <p>3 form of the question. He's already testified that</p> <p>4 he owns -- he was a part owner in the LLC that</p> <p>5 owned the entity.</p> <p>6 A Okay. And I swear to you I'm not being</p> <p>7 difficult.</p> <p>8 Q I know.</p> <p>9 A I'm just trying to answer your question</p> <p>10 but I'm trying to make sure I answer your question</p> <p>11 right.</p> <p>12 Q I appreciate that.</p> <p>13 A And I'm trying to be honest.</p> <p>14 Q I appreciate it.</p> <p>15 A Okay. There is -- okay. So do you --</p> <p>16 are you asking me whether or not, to clarify, that</p> <p>17 I sign in the capacity as an individual outside of</p> <p>18 LLCs for ownership of anything on this list?</p> <p>19 Q Right.</p> <p>20 A Okay. I do not believe so.</p> <p>21 Q And then not even with regard to</p> <p>22 signing, but do you personally, personally have an</p>	<p>47</p> <p>1 Q Sure.</p> <p>2 A Okay? And I have ownership in Nexus.</p> <p>3 Q I understand that.</p> <p>4 A So that's where I'm really, really</p> <p>5 struggling here.</p> <p>6 Q So I understand that the LLCs own the</p> <p>7 properties and that you have an ownership interest</p> <p>8 in the LLCs, right? The LLCs are owned by you and</p> <p>9 Mr. Donovan?</p> <p>10 A I know we signed the paperwork, but I</p> <p>11 think Nexus actually owns it but I don't know. I</p> <p>12 mean, I don't --</p> <p>13 Q Okay.</p> <p>14 A That's --</p> <p>15 Q All right. And so other than that, put</p> <p>16 that aside, you personally, do you now or have you</p> <p>17 ever had a ownership interest in any of the listed</p> <p>18 properties in your own personal name, capacity,</p> <p>19 rather than the LLCs?</p> <p>20 A I do not believe so, but I will get</p> <p>21 back to you on that because I would be concerned</p> <p>22 that maybe we signed paperwork that was changed</p>
<p>46</p> <p>1 ownership interest in any of the listed</p> <p>2 properties?</p> <p>3 MS. PETERS: Object to the form of the</p> <p>4 question.</p> <p>5 A Can I ask another clarifying question?</p> <p>6 Q Sure.</p> <p>7 A If -- and I don't know if it's a</p> <p>8 question I should ask my counsel or not.</p> <p>9 MS. PETERS: If you have some --</p> <p>10 Q Why don't --</p> <p>11 MS. PETERS: The witness is not a</p> <p>12 lawyer and he's struggling with --</p> <p>13 MS. KATSANTONIS: Well, I'm not even</p> <p>14 asking a technically law question.</p> <p>15 Q Just tell me --</p> <p>16 A Listen.</p> <p>17 Q -- any interest you have.</p> <p>18 A Listen, I know the questions are going</p> <p>19 to be harder from here, okay. I'm not stupid.</p> <p>20 What I'm trying to do now, I'm trying to figure</p> <p>21 out -- so I technically would have an ownership</p> <p>22 interest in the LLCs.</p>	<p>48</p> <p>1 later or something. So I don't want to say</p> <p>2 without a doubt 100 percent.</p> <p>3 Q Okay. So it's possible that you have</p> <p>4 an owner interest personally in the properties</p> <p>5 separate from the LLCs?</p> <p>6 A I don't believe at this current moment</p> <p>7 I do.</p> <p>8 Q Okay. But it's possible you did at</p> <p>9 some point.</p> <p>10 A It's possible that paperwork was put --</p> <p>11 we have a lot of properties, sometimes mistakes</p> <p>12 are made on paperwork and when they go to file it,</p> <p>13 they fix it.</p> <p>14 Q Okay. So you testified that all the</p> <p>15 employees report to you.</p> <p>16 MS. PETERS: Object to form.</p> <p>17 Q Other than Mr. --</p> <p>18 MS. PETERS: That misstates his prior</p> <p>19 testimony.</p> <p>20 Q Not including Mr. Donovan?</p> <p>21 A That's up for debate, but yes.</p> <p>22 MS. KATSANTONIS: All right. I'm going</p>

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13 (49 to 52)

49

1 to mark this.

2 **A Okay. I've got it down pat now.**

3 (Moore Exhibit 3 marked for

4 identification and attached to the transcript.)

5 THE WITNESS: Do you have a copy of

6 this, Mary Donne?

7 MS. PETERS: I do, thank you.

8 THE WITNESS: Okay.

9 Q Do you recognize this document?

10 **A Yes.**

11 Q Okay. And this is a standard operating

12 procedures manual for Nexus Services, Inc.; is

13 that correct?

14 **A That is what it says.**

15 Q Okay. And do you also maintain

16 standard operating procedures manuals for Libre by

17 Nexus and Homes by Nexus?

18 MS. PETERS: Object to form.

19 **A As of this date on here, January 18th,**

20 **I do not believe so.**

21 Q Okay. And prior to this date, did you

22 have separate standard operating procedure manuals

50

1 for Libre?

2 MS. PETERS: Object to the form.

3 **A Can I have one second?**

4 Q Sure.

5 **A I'm not going to read the whole thing,**

6 **I swear.**

7 **I believe not.**

8 Q Okay. All right. So this is a

9 Nexus -- this is a Nexus Services standard

10 operating procedures manual. And is it provided

11 to every employee?

12 **A Yes.**

13 MS. PETERS: Object to form.

14 **A Yes.**

15 Q And would that include employees, case

16 managers and CEMs?

17 MS. PETERS: Object to form.

18 **A Yes.**

19 Q Okay. And then looking at this

20 document, it sets forth, you know, various

21 categories of, you know, employment policies and

22 information and employee conduct. And then

51

1 there's sections on client management, right,

2 Section 6?

3 **A Yes.**

4 Q Okay. And so the client management

5 sets forth information on how the Nexus Services

6 employees are to deal with Nexus clients; is that

7 correct?

8 MS. PETERS: Object to the form.

9 **A At the production of this one in 2018,**

10 **yes.**

11 Q Okay. And looking at page 65 of the

12 manual, which is Bates-stamped Nexus 335777.

13 **A What's a Bates stamp?**

14 Q Well, that's a good question. See on

15 the bottom it says Nexus.

16 **A Okay.**

17 Q That's a Bates stamp. But you can just

18 go by the 60 -- page 65.

19 **A That's much easier. Okay.**

20 Q So in the Nexus Services standard

21 operating procedures manual it provides a section

22 on Capsule, right?

52

1 **A Yes.**

2 Q And it provides what the Capsule policy

3 is for the Nexus Services employees, correct?

4 **A It provides the Capsule policy for**

5 **anybody who is accessing Capsule.**

6 Q Right. And it talks about the

7 importance of using Capsule, correct?

8 **A For anybody using Capsule, yes.**

9 Q Right. And it talks about all -- in

10 6.01, "All interactions and communications

11 regarding Nexus clients, verbal or written, must

12 be documented in the client Capsule file."

13 Is that correct?

14 MS. PETERS: Object to form.

15 **A For anybody using Capsule, yes.**

16 Q Right. And so the -- and it goes on to

17 talk about how to handle various phone calls and

18 enter that information to Capsule as well?

19 **A For anybody using Capsule, yes.**

20 Q Okay. And then looking at page -- the

21 next page, 67, two pages over, I guess.

22 **A (The witness complies.)**

Transcript of Richard Moore
Conducted on February 27, 2020

14 (53 to 56)

53

1 Q In paragraph 6.9 there's a completion
2 of Nexus Services, Inc. risk analysis.
3 Do you see that?
4 **A Yes.**
5 Q Okay. And so that talks about the risk
6 analysis assessment sheet that's used when taking
7 on new Nexus clients, correct?
8 MS. PETERS: Object to form of the
9 question.
10 Are you asking him what the document
11 says?
12 MS. KATSANTONIS: I'm asking him...
13 MS. PETERS: I'm going to object to the
14 form of the question.
15 **A Can you repeat the question?**
16 MS. KATSANTONIS: Can you read back my
17 question.
18 THE WITNESS: I'm sorry. I'm supposed
19 to ask you.
20 (The requested text was read by the
21 reporter as follows: "Okay. And so that talks
22 about the risk analysis assessment sheet that's

54

1 used when taking on new Nexus clients, correct?")
2 MS. PETERS: Object to form.
3 **A At the time of this production, yes.**
4 **How the production of this -- I'm sorry, at the**
5 **time of printing of this standard operating**
6 **procedure, yes, that would be correct.**
7 Q Okay. And it talks about the
8 completion of a Nexus Services, Inc. risk
9 analysis, right?
10 MS. PETERS: Object to form.
11 Q 6.9?
12 MS. PETERS: Object to form.
13 **A This document does state that.**
14 Q Okay. And so the -- that would be a
15 Nexus Services, Inc. function to complete that
16 risk analysis form, correct?
17 MS. PETERS: Object to the form of the
18 question.
19 **A I think that it would depend on where**
20 **the person actually -- what part of the company**
21 **the person works in who's doing it. Because if**
22 **it's a Libre employee, then Libre would be doing**

55

1 **it. Or if it's a Serve -- I believe at the time**
2 **Serve may have been using the risk assessment as**
3 **well.**
4 Q Okay. So a Libre employee would be
5 doing the Nexus Services, Inc. risk assessment.
6 MS. PETERS: Object to the form of the
7 question.
8 Q Is that correct?
9 MS. PETERS: Are you asking about the
10 document or are you asking about the company?
11 MS. KATSANTONIS: I asked my question.
12 **A So whoever's completing the form would**
13 **follow the guidelines set forth here.**
14 Q Right. And you said that it could be a
15 Libre by Nexus employee who's completing the form,
16 correct?
17 MS. PETERS: Object to form.
18 **A Yes.**
19 MS. PETERS: Misstates.
20 Q And then so the Libre by Nexus employee
21 is completing the Nexus Services, Inc. risk
22 assessment form, correct?

56

1 MS. PETERS: Object to the form of the
2 question.
3 **A According to section 6.9 in this SOP,**
4 **whoever's completing the form would complete it.**
5 Q And that risk assessment form is
6 maintained in the Capsule database, correct?
7 **A I believe, yes, it should be.**
8 Q Looking at 6.12.
9 **A On page 68, correct?**
10 Q Yes.
11 **A Okay.**
12 Q It talks about processing the
13 collateral form for approved clients.
14 Do you see that?
15 **A Yes.**
16 MS. PETERS: Object to form.
17 Q Okay. And there's -- what is the
18 separate collateral form? Can you tell me what
19 that document is?
20 MS. PETERS: Object to the form of the
21 question. It doesn't refer to a separate
22 collateral form.

Transcript of Richard Moore
Conducted on February 27, 2020

15 (57 to 60)

57

1 A Allow me a second to please --
2 Q Sure.
3 A I'm trying to understand the context of
4 6.12. So this would be -- in regards to 6.12, as
5 listed in this SOP updated in January of 2018, the
6 collateral form would be a form that after the
7 completion of the internal review when Nexus has
8 decided that they're willing to -- to agree to
9 accept the monitoring and assistance of this
10 client, that that would be the form we would
11 submit before anything went forward with notifying
12 the bail bondsman.
13 Q Okay. And when collateral is received
14 from a client, where does that money go?
15 MS. PETERS: Object to form.
16 A Can you please define what you mean by
17 "collateral received from a client"? This says
18 nothing --
19 Q Well, processing the collateral form
20 for approved client, right?
21 A In that particular case right there,
22 that is a process for us to accept a client into

58

1 our program. So I guess at that point maybe the
2 person would be the collateral in this particular
3 case here because we are accepting them in our
4 program.
5 Q Okay. Does Nexus take a fee for
6 accepting a person into the program?
7 A Yes.
8 Q And where do those funds go?
9 A Into the bank.
10 Q Which bank?
11 A It depends how the fees are paid. It
12 could go into a regional bank if paid by a client
13 or go into our main bank.
14 Q Okay. It goes into the -- it goes to
15 the Libre by Nexus operating account?
16 A Again, it depends on how it's paid.
17 Q Okay. So if it's paid by cash or
18 check, or is that different? Is it always cash or
19 credit card?
20 MS. PETERS: Object to form.
21 A It could be check as well, but it would
22 be -- it depends on where it's paid.

59

1 Q Okay. As to -- whether it goes to
2 regional, you know -- the initial receipt of these
3 funds goes to a regional bank, for the most part;
4 is that correct?
5 A It depends, again, where it's paid. If
6 you're paying via credit card then it'll go to
7 City National Bank. If you pay in Verona,
8 Virginia, it goes to National Bank.
9 Q Okay. But are all these accounts Libre
10 by Nexus accounts?
11 MS. PETERS: Object to form.
12 What accounts are you referring to,
13 Ms. Katsantonis?
14 MS. KATSANTONIS: The ones just
15 described by the witness.
16 MS. PETERS: You've asked him about
17 accounts, various accounts.
18 A I -- I don't know what names they're
19 all in, but you have the bank statements.
20 Q Okay. So you don't know whether
21 they're -- all the accounts are in the name of
22 Libre by Nexus or Nexus Services or Homes?

60

1 MS. PETERS: Object to the form of the
2 question. It's vague and unfair.
3 MS. KATSANTONIS: Okay.
4 A I don't know -- at the time a deposit
5 is made, I don't know where each and every deposit
6 goes to.
7 Q True. But aren't they -- don't all of
8 the funds collected by the program participants,
9 don't they all end up in a Libre account, Libre by
10 Nexus operating account, or not always?
11 A Not always.
12 Q Okay. And so do they always end up in
13 a Libre by Nexus account, not even operating, just
14 an account owned by Libre by Nexus?
15 A As I do not know the exact title of the
16 regional banks, I can't answer that question.
17 Q Okay. So do some of the regional -- do
18 some funds by the regional bank go elsewhere, not
19 to a Libre account?
20 A If you could show me regional bank
21 statements, I could tell you. But as I don't know
22 what -- what company name the regional banks are

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16 (61 to 64)

<p>61</p> <p>1 in I can't answer that question.</p> <p>2 Q Do you have one regional bank that --</p> <p>3 is there, like, particular regional banks that</p> <p>4 don't funnel money up to Libre operating account?</p> <p>5 MS. PETERS: Object to the form of the</p> <p>6 question.</p> <p>7 A In what capacity? I mean...</p> <p>8 Q Any. I mean, is it -- is it the -- so</p> <p>9 let's just go a little broader first.</p> <p>10 A Okay.</p> <p>11 Q So the program participants, they pay</p> <p>12 various fees into these regional bank accounts,</p> <p>13 right? Let's take -- put the credit cards aside</p> <p>14 for now, but for cash.</p> <p>15 Is that correct?</p> <p>16 A Yes.</p> <p>17 Q Okay. And those funds usually go into</p> <p>18 an account at the regional bank and then they</p> <p>19 go -- they get pulled and put into a separate</p> <p>20 account in that same bank every night?</p> <p>21 MS. PETERS: Object to form.</p> <p>22 A I am -- I'm not going to agree to every</p>	<p>63</p> <p>1 Q Okay. And which different entities do</p> <p>2 you have accounts for at City National?</p> <p>3 A I cannot tell you with certainty all of</p> <p>4 them.</p> <p>5 Q Okay. But based on the chart we looked</p> <p>6 at, which ones do you know?</p> <p>7 MS. PETERS: Object to the form of the</p> <p>8 question.</p> <p>9 Which chart are you referring to?</p> <p>10 MS. KATSANTONIS: Exhibit 1 we looked</p> <p>11 at today.</p> <p>12 MS. PETERS: Exhibit 1 is not a list of</p> <p>13 the bank accounts, Ms. Katsantonis.</p> <p>14 MS. KATSANTONIS: Ms. Donne Peters, if</p> <p>15 the deponent understands my question, please let</p> <p>16 him answer. If you don't and you're not</p> <p>17 following, that's a different issue. But we --</p> <p>18 MS. PETERS: Ms. Katsantonis --</p> <p>19 MS. KATSANTONIS: I didn't --</p> <p>20 MS. PETERS: -- it's unfair.</p> <p>21 MS. KATSANTONIS: -- ask him about</p> <p>22 accounts.</p>
<p>62</p> <p>1 night.</p> <p>2 Q Okay. But routinely?</p> <p>3 A Routinely, yes.</p> <p>4 Q Okay. And then from that account, do</p> <p>5 most of the regional banks then transfer those</p> <p>6 funds to the Libre operating account, the [REDACTED]</p> <p>7 account?</p> <p>8 A I can't with certainty tell you which</p> <p>9 account they could go into but there is most of</p> <p>10 the time a transfer over.</p> <p>11 Q To the [REDACTED] account?</p> <p>12 A To City National Bank.</p> <p>13 Q Okay. So it could be any of several</p> <p>14 accounts at City National?</p> <p>15 MS. PETERS: Object to form.</p> <p>16 A Yes.</p> <p>17 Q Okay. And how many accounts does --</p> <p>18 and are all those accounts at City National in the</p> <p>19 name of Libre by Nexus or are they in the name of</p> <p>20 other entities?</p> <p>21 A We have several accounts at City</p> <p>22 National for several different entities.</p>	<p>64</p> <p>1 MS. PETERS: It's unfair. You did --</p> <p>2 MS. KATSANTONIS: No, it's not. You</p> <p>3 did not --</p> <p>4 MS. PETERS: -- ask him.</p> <p>5 MS. KATSANTONIS: You didn't --</p> <p>6 MS. PETERS: May I ask the court</p> <p>7 reporter to read the question back, please.</p> <p>8 THE WITNESS: Can we take a break?</p> <p>9 MS. KATSANTONIS: Can we -- wait.</p> <p>10 Since we're in the middle of a question, let's</p> <p>11 just finish the question. Because we're in the</p> <p>12 middle of a question and so it's not appropriate</p> <p>13 to take a break in the middle of a question. Read</p> <p>14 back the question.</p> <p>15 MS. PETERS: I will like the question</p> <p>16 read back, please. Beginning with where she's</p> <p>17 addressing accounts and then moves to a chart.</p> <p>18 MS. KATSANTONIS: We're not going back</p> <p>19 there. Just go to the last question, please.</p> <p>20 A I'm sorry.</p> <p>21 Q It's not you.</p> <p>22 (The requested text was read by the</p>

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17 (65 to 68)

<p>65</p> <p>1 reporter as follows: "Okay. And which different 2 entities do you have accounts for at City 3 National?")</p> <p>4 A I know for a fact that Nexus Services 5 and Libre by Nexus and Homes have accounts with 6 City National. And I cannot, without having 7 anything in front of me, verify any other entities 8 that have accounts there.</p> <p>9 Q Do you --</p> <p>10 A And now we're going to break.</p> <p>11 MS. PETERS: Yes. Thank you very much. 12 MR. HARRIS: And we have our call. 13 THE VIDEOGRAPHER: We are going off the 14 record at 12:44. 15 (Recess taken.) 16 THE VIDEOGRAPHER: We are back on the 17 record at 16:38. 18 MR. KOWALCZUK: Before we begin, 19 Ms. Katsantonis and counsel, Chris Kowalczuk for 20 all three defendants. The parties have agreed to 21 a stipulation which I'm going to now read. The 22 three defendants in this case, Nexus Services,</p>	<p>67</p> <p>1 All right. So let's move on. 2 In your role as vice president, right? 3 So what is your role on the day-to-day business of 4 Nexus or Libre with, we're just going to call them 5 Nexus now. For our purposes, we're just going to 6 say Nexus. 7 THE WITNESS: To clarify for counsel 8 when she refers to Nexus, it means to everything 9 as one, correct? 10 MR. KOWALCZUK: Yes. 11 THE WITNESS: Okay. 12 Q Okay. And that would be Nexus, Homes, 13 and Libre. 14 A Okay. 15 Q If it's some other entity like One 16 Fish, Two Fish or something, then you need to 17 distinguish. 18 A Okay. 19 Q Okay. The stipulation is as to the 20 three entities. 21 So with regard to Nexus, on a 22 day-to-day basis, what are your roles and</p>
<p>66</p> <p>1 Inc., Homes by Nexus, Inc., and Libre by Nexus, 2 Inc., stipulate and agree that for all purposes of 3 this lawsuit the three defendants as alter egos of 4 one another shall be treated as a single entity 5 and that all three defendants will be jointly and 6 severally liable for any damages or remedies 7 awarded against any of them in this case.</p> <p>8 With that, Ms. Katsantonis, please 9 continue. 10 MS. KATSANTONIS: Thank you. 11 MR. KOWALCZUK: Yes, ma'am. 12 BY MS. KATSANTONIS: 13 Q All right. Good afternoon, Mr. Moore. 14 Sorry we've had some delays with these court 15 hearings. 16 A It still is Thursday, right? 17 Q So I'm going to try to pick up what we 18 were -- near where we left off. 19 So one thing we talked about, and I 20 just want to make sure my understanding is 21 correct, was with regard to the -- well, let me 22 back up. I don't want to do that.</p>	<p>68</p> <p>1 responsibilities with regard to the financial side 2 of the business? 3 A It varies from day-to-day. It could be 4 anything to answering questions to communication 5 with vendors or contracts or just any issues that 6 somebody has, some of the questions people have 7 for me. 8 Q Okay. Do you keep track every day as 9 to the income that is being received by the 10 company? 11 A I do not personally keep track every 12 day of the income being received by the company. 13 Q Okay. How often do you keep track of 14 the income that's being received by the company? 15 A I personally do not keep track of the 16 income being received by the company. 17 Q Sure. Is that being tracked on KPI or 18 some other database? 19 A There are -- there is a KPI for certain 20 parts of the company that is generated on a daily 21 basis. 22 Q Okay. And the KPI is a point of sale</p>

Transcript of Richard Moore
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18 (69 to 72)

69

1 document that keeps track of receipts?
2 **A The KPI is not a point of sale**
3 **documents.**
4 Q Okay. What is -- I'm sorry, LiteSpeed
5 is, you're right.
6 **A Yes.**
7 Q So how does the KPI determine receipts?
8 **A The KPI has fields that would show a**
9 **snapshot for the day of -- previous day of revenue**
10 **and other key performance indicators. And it is a**
11 **partial snapshot of revenue only -- I believe a**
12 **partially snapshot of revenue.**
13 Q Okay. Where would the other revenue be
14 derived or how could you see what all of your
15 revenue is, let's say for a given week?
16 **A For the -- for all three entities**
17 **combined, I don't believe there would be a report**
18 **that shows one solid report for all three, as**
19 **Homes is separate.**
20 Q Okay. So how would you -- if you
21 wanted to know the total revenue for the week that
22 Nexus had available to it, what would you look at?

70

1 What do you look at?
2 **A I would look at the KPI for -- to look**
3 **at income coming in through Libre, but, again,**
4 **Homes is a separate system altogether.**
5 Q Where would the Homes revenue be
6 maintained or how would you get access to see what
7 that revenue is?
8 **A It would come from Homes.**
9 Q All right. I'm sorry, are you looking
10 at a certain database or what are you looking at?
11 **A I don't look at a database at all for**
12 **it. I would -- the gentleman who runs Homes would**
13 **have the information.**
14 Q Does he report to you?
15 **A Yes.**
16 Q And is that Tim Donovan?
17 **A No.**
18 Q Okay. Who is that?
19 **A Ryan.**
20 Q What's his last name?
21 **A Ryan Rowe.**
22 Q Okay.

71

1 **A I believe. I need to double-check that**
2 **because I don't -- I just tap on Ryan at this**
3 **point.**
4 Q And does he generate a report that you
5 look at?
6 **A No.**
7 Q So do you verbally communicate or by
8 email or how do you know what the revenue is from
9 Homes?
10 **A It depends on the issue. A lot of**
11 **times we don't discuss the revenue for Homes at**
12 **all because he just pays the bills for Homes.**
13 Q Okay. Over -- from 2017 the KPI report
14 is one tool. Does that capture most of the
15 revenue stream to Nexus?
16 **A Yes.**
17 Q All right. And can you tell me, if you
18 recall, and if not I'll pull out the documents,
19 for 2017 versus '18, versus '19, do you have a
20 general idea of the revenue? Has it been
21 consistent? Has it fluctuated?
22 **A I'm going to ask for the documents**

72

1 **because...**
2 Q All right.
3 **A Get your sticker ready.**
4 (Moore Exhibit 4 marked for
5 identification and attached to the transcript.)
6 MS. PETERS: Do you have a copy for
7 counsel?
8 MS. KATSANTONIS: I'm sorry.
9 MS. PETERS: Thank you.
10 Q And reviewing this document, can you
11 advise what the revenue income was for 2017?
12 MS. PETERS: And this is 3?
13 THE COURT REPORTER: 4.
14 MS. PETERS: 4.
15 **A Thank you.**
16 Q It's hot, right?
17 **A Yes. And I'm fat, too. It doesn't**
18 **help.**
19 Q You're not.
20 **A No, I cannot.**
21 Q If you look every month -- you can't --
22 is that not a copy of a KPI report you would have

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Conducted on February 27, 2020

19 (73 to 76)

73

1 reviewed?

2 **A It is a report, KPI report that I would**

3 **review.**

4 Q Okay. And why can't you tell what the

5 revenue was for 2017 from that document?

6 **A Because this KPI is not complete for**

7 **2017.**

8 Q What's it missing?

9 **A If you review the KPI, it is missing**

10 **half the month of December, so, therefore, it's**

11 **impossible for me to give an accurate number based**

12 **on the information provided.**

13 Q Okay. Does it have a total for up to

14 the half of the month of December?

15 **A It does on the front page but not**

16 **the -- actually it does on the bottom here as**

17 **well, yes.**

18 Q Okay. And what is that total?

19 **A 1 million -- let me look on the front**

20 **page of this. 235,645.**

21 Q That wouldn't be the total for the

22 whole year?

74

1 **A No. For December, yes.**

2 Q Right. Would you just add up every

3 month to get the total?

4 MS. PETERS: Excuse me. I'm confused.

5 When you say "to get the total," was December

6 complete or not complete?

7 MS. KATSANTONIS: Well, I'm talking

8 about the total through -- as of the date of this

9 document.

10 So Mr. Moore has testified he thinks it

11 goes through mid December, so up through mid

12 December. Sorry.

13 **A And I do --**

14 Q Could you just add up -- in the top on

15 the front page --

16 **A And I never have seen this page before,**

17 **page 2. I'm not saying that it's not a valid**

18 **page, it just looks a lot more uncool than other**

19 **pages.**

20 Q Okay. Let me ask you something. Look

21 at the front page. It says "total revenue."

22 **A Yes.**

75

1 Q And year to date, 41,421,503.

2 **A Yes.**

3 Q Does that appear accurate?

4 MS. PETERS: Object to form.

5 **A I did not do the math so I can't verify**

6 **the numbers on here.**

7 Q Okay.

8 **A But I'm saying that in a normal format,**

9 **if this was -- I'm not saying I don't know if a**

10 **sale would change something but the numbers sound**

11 **like it could be right.**

12 Q So this was produced by your counsel.

13 See it says Eckert Nexus?

14 **A Yes.**

15 Q I guess what I'm trying to understand

16 is --

17 **A So --**

18 Q -- it seems like you're questioning or

19 have an issue with the document. I just want to

20 understand how is this different than what you

21 would be looking at normally?

22 **A Because you're asking me under oath to**

76

1 **verify these numbers. I'm telling you under oath**

2 **that I have not broken a calculator out to verify**

3 **these numbers.**

4 **So if you're asking me, does it look**

5 **like it could be, it's in the ballpark, yes. It**

6 **could be in the ballpark. If you're asking me**

7 **under oath is this accurate I'm not going to say**

8 **under oath that this is accurate --**

9 Q All right.

10 **A -- because I didn't add all these**

11 **numbers up individually.**

12 Q And how are these numbers entered into

13 the system to derive this KPI report?

14 **A It is sent over by Libre leadership**

15 **every morning. And I believe they garner the**

16 **numbers from LiteSpeed.**

17 Q So would that be David See who provides

18 information to you or somebody else?

19 **A It depends on what morning and who at**

20 **Libre leadership does it.**

21 Q Who else would be besides David See?

22 **A It could be David See, it could be Nina**

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20 (77 to 80)

77

1 **Erlandson or it could be Kelly who is their admin.**
2 Q Okay. So the numbers would be derived
3 from LiteSpeed and then placed into the KPI
4 database; is that right?
5 **A It is placed in the spreadsheet and**
6 **updated spreadsheet is sent out.**
7 Q Okay. As of 2019, has there been a
8 decrease in total revenue from program
9 participants?
10 **A I don't have a KPI or any numbers in**
11 **front of me right now to tell you yes or no.**
12 Q You don't know sitting here today
13 whether or not there's been a decrease in the
14 yearly revenue?
15 MS. PETERS: Object to form.
16 Year-over-year? Since 2017? Since the beginning
17 of the year?
18 Can you be more specific,
19 Ms. Katsantonis?
20 MS. KATSANTONIS: I'm asking if he
21 knows from '17 to '18, '18 to '19.
22 **A Okay. I do not know. If you have KPIs**

78

1 **for these other years or anything you want to show**
2 **me, then I can give you a reasonable assumption**
3 **looking at those.**
4 Q Well, you know, you just testified that
5 you're not going to verify the accuracy of any
6 documents.
7 MS. PETERS: Object to form. That's
8 not his testimony, Ms. Katsantonis.
9 Q Well, I'm trying to get an
10 understanding as vice president --
11 **A Ms. Katsantonis, you put in front of me**
12 **a document and asked me is this the correct number**
13 **for 2017. However, the document -- I had to point**
14 **out to you, ma'am, that this is an incorrect --**
15 **incomplete number for 2017.**
16 Q Okay.
17 **A So you asked me if it's a complete**
18 **number for 2017, and unfortunately it's not. Now,**
19 **if you have a complete KPI for 2017, then I could**
20 **look at that.**
21 Q All right. So -- and do you know --
22 **A But I did stipulate this is the correct**

79

1 **format.**
2 Q Okay. Well, let me ask you this --
3 **A Sure.**
4 (Moore Exhibit 5 marked for
5 identification and attached to the transcript.)
6 Q Now this document I just handed you
7 says 2017 on the top but do you know whether
8 that's for 2017 data or 2000 -- or is it a
9 different time frame?
10 MS. PETERS: Excuse me. Do you have a
11 copy for me?
12 THE WITNESS: Right there.
13 MS. PETERS: Thank you.
14 **A These two documents are not the same --**
15 **Q Right.**
16 **A -- as far as numbers go.**
17 **Q Right. And yet the totals are pretty**
18 **close, right, for the total revenue?**
19 MS. PETERS: Object to form.
20 Are you referring to December?
21 MS. KATSANTONIS: I'm referring to the
22 total revenue year to date, front page of each of

80

1 the documents.
2 Q Does it appear that the second report I
3 gave you has numbers from both 2018 and '17? It
4 looks kind of like a mixed document, doesn't it?
5 I'm looking at the top of let's say the third
6 page, it says "January 2018" at the top.
7 Do you see that? Do you see the
8 columns?
9 **A Barely.**
10 **Q Right? But you see what I'm saying,**
11 **right?**
12 **A Yes.**
13 **Q It says January 2018. When you flip**
14 **the next page it says February 2017. Then the**
15 **next page says March 2018, and then it goes on**
16 **for -- and then in -- I believe in November it**
17 **reverts back to 2017.**
18 Do you see that?
19 **A No, but I'm getting there. I**
20 **apologize. It is a very, very small field.**
21 **Q Yeah. No, I'm just trying to**
22 **understand the documents that's been produced in**

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21 (81 to 84)

<p>1 this litigation.</p> <p>2 A I see that there are certain months</p> <p>3 that are labeled differently.</p> <p>4 Q Right. Do you know, is that how that</p> <p>5 would be kept in the normal course of business?</p> <p>6 A I believe that our team has a</p> <p>7 spreadsheet that is updated. And I don't know why</p> <p>8 these -- I say this but I can find out for you.</p> <p>9 Q Okay. Are you the one who is -- well,</p> <p>10 let me -- just sticking with the documents first.</p> <p>11 Can you ensure that we get accurate copies of KPI</p> <p>12 reports that show the revenue for 2017, '18, and</p> <p>13 '19?</p> <p>14 MS. PETERS: Object to form.</p> <p>15 A If you can request from our attorneys.</p> <p>16 Q Yeah.</p> <p>17 A Yes, and that's --</p> <p>18 Q I just -- you know, this is what's been</p> <p>19 produced to us in litigation and they appear to be</p> <p>20 inaccurate.</p> <p>21 A I would love to live in a world where</p> <p>22 human error doesn't happen from time to time,</p>	<p>1 and Wanda Barnes. And then we had temps from</p> <p>2 Randstad.</p> <p>3 Q Okay. And Stephanie Cash, what was her</p> <p>4 role in the -- on the finance team?</p> <p>5 A Stephanie started off as a finance</p> <p>6 clerk before moving to payroll.</p> <p>7 Q And she's no longer with the company?</p> <p>8 A No.</p> <p>9 Q And did she perform her services</p> <p>10 properly while she worked for Nexus?</p> <p>11 A [REDACTED]</p> <p>12 Q [REDACTED]</p> <p>13 A May I consult counsel for a second?</p> <p>14 MS. KATSANTONIS: Sure.</p> <p>15 THE VIDEOGRAPHER: Off the record?</p> <p>16 THE WITNESS: Yes, please.</p> <p>17 THE VIDEOGRAPHER: We are going off the</p> <p>18 record at 1700.</p> <p>19 (Recess taken.)</p> <p>20 THE VIDEOGRAPHER: We are back on the</p> <p>21 record at 17:03.</p> <p>22 A Can you -- ask her to read it back.</p>
<p>1 where they don't accidentally mislabel a month.</p> <p>2 Q I'm just interested in the results.</p> <p>3 I'm not trying --</p> <p>4 A I understand completely.</p> <p>5 Q Okay. All right.</p> <p>6 A Are we done with these?</p> <p>7 Q Yes, I believe so.</p> <p>8 Are you responsible for determining</p> <p>9 which bills should get paid?</p> <p>10 MS. PETERS: Object to form.</p> <p>11 A I am part of the process, yes.</p> <p>12 Q Who else is involved in the process and</p> <p>13 can you explain the process?</p> <p>14 A Our finance team is. They -- a lot of</p> <p>15 times they will communicate with me through either</p> <p>16 issues on the aging report they see or if there's</p> <p>17 something urgent that they've missed.</p> <p>18 Q Who is your finance team?</p> <p>19 A It's going to be currently Tawana</p> <p>20 Washington and Imani Chapman.</p> <p>21 Q And prior to that who was it?</p> <p>22 A We had Elizabeth Hurst, Stephanie Cash,</p>	<p>1 Q Yeah, I'm sorry.</p> <p>2 A Can you repeat the last question?</p> <p>3 (The requested text was read by the</p> <p>4 reporter as follows: "And did she perform her</p> <p>5 services properly while she worked for Nexus?</p> <p>6 A [REDACTED]</p> <p>7 Q [REDACTED]</p> <p>8 A [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 Q Okay. But as far as her bookkeeping or</p> <p>12 that kind of services performed, to the best of</p> <p>13 your knowledge did she perform them well for</p> <p>14 Nexus?</p> <p>15 A [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 Q [REDACTED]</p> <p>18 A [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 Q Okay. Who's your accountant that you</p> <p>22 spoke to?</p>

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22 (85 to 88)

85

1 A We consulted with our primary
2 accountant which is Grant Thornton and we use
3 another firm as well to do a lot of legwork.
4 Q Did you direct Ms. Cash in her
5 performance of the work?
6 A No, she did not report directly to me.
7 Q Who did she report to?
8 A At the time they worked there she
9 reported to Timothy Okonski and to Human
10 resources.
11 Q And did Timothy Okonski direct her
12 work?
13 A Actually I believe she also reported to
14 Elizabeth Hurst as well.
15 Q Okay. Did Timothy Okonski direct
16 Ms. Hurst and Ms. Cash?
17 A He was, at the time, CFO.
18 Q So the answer's yes?
19 A Yes.
20 Q Okay. What does Grant do for you as an
21 accountant?
22 MS. PETERS: Object to form. He

86

1 referred to Grant Thornton.
2 MS. KATSANTONIS: Grant Thornton, thank
3 you.
4 A They are our CPAs, and what they do is
5 they are in the process right now of making all of
6 our records GAAP compliant.
7 Q Okay. So when you were referencing
8 [REDACTED]
9 [REDACTED], are you talking about information you
10 received today or recently from Grant Thornton?
11 A Grant Thornton has advised us to be
12 fully GAAP compliant by new rules set out in 2019,
13 that we had to add things to our financials that
14 go back and – from earlier on previous years as
15 well.
16 Q Okay. And why do you assert that
17 somehow [REDACTED]
18 A [REDACTED]
19 [REDACTED]
20 Q Okay.
21 A Additionally an internal investigation
22 [REDACTED]

87

1 providing to a third party.
2 Q And Mr. Okonski is part of your
3 financial team?
4 A He was, yes.
5 Q Okay. And then you said she reported
6 to Ms. Hurst, right?
7 A I believe at some point, yes.
8 Q Okay. And did Ms. Hurst perform her
9 services well for the company?
10 A [REDACTED]
11 [REDACTED]
12 Q [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 A [REDACTED]
16 [REDACTED]
17 Q [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 A I do not.
21 Q And why not?
22 A Because the finance team did not

88

1 perform their jobs to industry standards as a
2 general rule and that's why we're fixing it now.
3 Q Well, when you say "industry
4 standards," what knowledge do you have as to what
5 are industry standards?
6 A I go by what our accountants tell us
7 and I look at litigation like yours and learn from
8 it.
9 Q Okay. Your accountants, you're talking
10 about Grant Thornton?
11 A Yes.
12 Q And when did Grant Thornton advise you
13 that your books and records were not up to
14 industry standards?
15 A I do not have the exact date but I can
16 get it for you.
17 Q Can you give me an idea? Was it this
18 year?
19 A It wasn't this year.
20 Q Was it in 2019?
21 A I am unsure if it was 2019 or 2018.
22 Q Okay. And then following Ms. Cash and

Transcript of Richard Moore
Conducted on February 27, 2020

23 (89 to 92)

89
1 Ms. Hurst, Wanda Barnes was on your finance team,
2 right?
3 **A Yes.**
4 Q And did Ms. Barnes conduct her
5 accounting or bookkeeping roles appropriately for
6 Nexus?
7 **A [REDACTED]**
8 Q I understand that. But I'm asking
9 about the accounting or bookkeeping work she did.
10 Did you think that was proper for Nexus Services?
11 **A [REDACTED]**
12 **[REDACTED]**
13 **[REDACTED]**
14 **[REDACTED]**
15 **[REDACTED]**
16 Q She was not running another business,
17 do you contend?
18 **A [REDACTED]**
19 **[REDACTED]**
20 Q Okay.
21 **A [REDACTED]**
22 **[REDACTED]**

90
1 Q Okay.
2 **A [REDACTED]**
3 **[REDACTED]**
4 **[REDACTED]**
5 **[REDACTED]**
6 Q **[REDACTED]**
7 **[REDACTED]**
8 **[REDACTED]**
9 **[REDACTED]**
10 **[REDACTED]**
11 Q Okay. All right. So with regard to --
12 putting aside that incident, did you have any
13 other issues with her performance of work?
14 **A I'm sorry, but I -- if you expect me to**
15 **put aside that incident and say everything else**
16 **was great, I'm unable to do so. So yes, I would.**
17 Q Prior to that incident, had you ever
18 voiced any concerns with the performance of her
19 work?
20 MS. PETERS: Excuse me. I'm going to
21 object to the form of the question.
22 Are you asking him whether he told her

91
1 or whether he, himself, had some concerns?
2 MS. KATSANTONIS: I think my question
3 was clear.
4 Q Did you have any concerns with the
5 performance of her work prior to that incident?
6 **A [REDACTED]**
7 Q Okay. And what concerns did you have?
8 **A [REDACTED]**
9 **[REDACTED]**
10 **[REDACTED]**
11 **[REDACTED]**
12 Q Did you relay those concerns to her at
13 any time?
14 **A Ms. Barnes knew that I was coming to**
15 **Atlanta to meet with Grant Thornton and Ms. Barnes**
16 **knew that I was going to be there. Ms. Barnes**
17 **chose not to be there.**
18 Q And that was after Ms. Barnes
19 circulated an email to you and Mr. Donovan and
20 Mr. Okonski with a revised 2017 financial
21 statement, right?
22 **A I'm unsure of the exact timeline.**

92
1 Q It was after that, right? It was the
2 day that you -- the day you flew to Atlanta that
3 **[REDACTED]**
4 **[REDACTED]**
5 **A So --**
6 MS. PETERS: Object to form.
7 **A -- I'm sorry, Ms. Katsantonis, I'm not**
8 **going to play this game with you [REDACTED]**
9 **[REDACTED]**
10 **[REDACTED]**
11 Q I'm not asking about **[REDACTED]**
12 **A I know. I know it's very convenient**
13 **for you not to.**
14 Q Mr. Moore, my question --
15 **A [REDACTED]**
16 Q Mr. Moore, my question was only on the
17 timing of your visit. It had nothing to do with
18 that.
19 **A It was -- it was before --**
20 MS. PETERS: Excuse me. Let's take a
21 moment, answer her question. And I want to make
22 sure you understand what her question is.

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24 (93 to 96)

<p>93</p> <p>1 Are you asking him when he set up the</p> <p>2 meeting with Grant Thornton?</p> <p>3 MS. KATSANTONIS: No. My question to</p> <p>4 him is, and -- and I'd appreciate you to let me</p> <p>5 ask my question.</p> <p>6 Q My question to you is you said you had</p> <p>7 [REDACTED] when you flew to</p> <p>8 Atlanta for a meeting and she wasn't there, right?</p> <p>9 And my question to you was when you</p> <p>10 flew to Atlanta for a meeting, wasn't that after</p> <p>11 she had transmitted an email to you and</p> <p>12 Mr. Donovan and Mr. Okonski with the revised 2017</p> <p>13 profit and loss statement?</p> <p>14 MS. PETERS: Object to form.</p> <p>15 A I am unsure of exact dates.</p> <p>16 Q But isn't it true that the day that you</p> <p>17 traveled to Atlanta, within that next day is when</p> <p>18 [REDACTED]</p> <p>19 MS. PETERS: You don't remember.</p> <p>20 A I flew into Atlanta for a meeting with</p> <p>21 Grant Thornton.</p> <p>22 Q Uh-huh.</p>	<p>95</p> <p>1 recall that the revised P&L statement that was</p> <p>2 transmitted by Ms. Barnes occurred prior to your</p> <p>3 trip to Atlanta?</p> <p>4 A I don't --</p> <p>5 MS. PETERS: Object to form.</p> <p>6 A I don't -- do you have an email you can</p> <p>7 show me with a date on it?</p> <p>8 Q Well, I do and I can show you. But</p> <p>9 certainly it wouldn't have been after your trip to</p> <p>10 Atlanta [REDACTED]</p> <p>11 A Okay. But you're asking me specific</p> <p>12 questions regarding a timeline from, I guess, over</p> <p>13 a year ago.</p> <p>14 Q All right. Was the purpose of your</p> <p>15 trip in any way related to Ms. Barnes?</p> <p>16 A Ms. Barnes was not the sole purpose of</p> <p>17 my visit.</p> <p>18 Q Sure. But was she part of the reason</p> <p>19 for your visit?</p> <p>20 A Well, if I'm meeting -- my main purpose</p> <p>21 was to visit Grant Thornton but in her role in</p> <p>22 finance my goal was to meet with the finance team</p>
<p>94</p> <p>1 A And an office visit. She was not there</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 Q [REDACTED]</p> <p>5 A [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 Q Right. So clearly she had transmitted</p> <p>8 the revised P&L statement prior to your trip to</p> <p>9 Atlanta, right?</p> <p>10 MS. PETERS: Object to form.</p> <p>11 A She submitted a lot of reports.</p> <p>12 Q You don't recall that she had</p> <p>13 transmitted the revised 2017 profit and loss</p> <p>14 statement prior to your trip to Atlanta?</p> <p>15 MS. PETERS: Object to form.</p> <p>16 A My trip to Atlanta had nothing to do</p> <p>17 with an email from Wanda Barnes. My trip to</p> <p>18 Atlanta had to do with the fact that Grant</p> <p>19 Thornton was willing to meet with us and let us</p> <p>20 engage their services.</p> <p>21 Q Right. But I'm just trying to ask you,</p> <p>22 you don't recall -- it's your testimony you don't</p>	<p>96</p> <p>1 to talk to them about the changes we're making and</p> <p>2 partner with Grant Thornton.</p> <p>3 Q Let me ask you this: When did you fly</p> <p>4 to Atlanta? Do you remember the -- was it a</p> <p>5 Sunday, Monday, Tuesday?</p> <p>6 A I do not recall.</p> <p>7 Q Who did you fly with?</p> <p>8 A I do not recall. I believe it would</p> <p>9 have been Tim Okonski and Erik Schneider, I</p> <p>10 believe.</p> <p>11 Q Why were all three of you flying to</p> <p>12 Atlanta?</p> <p>13 A Because in the same building is a risk</p> <p>14 management office where Erik Schneider had</p> <p>15 employees and Tim Okonski would have come to me --</p> <p>16 came with me to meet the finance team.</p> <p>17 Q He would have come with you, pardon?</p> <p>18 A To meet with the finance team.</p> <p>19 Q To meet with the finance team.</p> <p>20 And was the purpose related to any sort</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p>

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25 (97 to 100)

<p>97</p> <p>1 MS. PETERS: Object to form.</p> <p>2 A I don't recall. I believe -- and I say</p> <p>3 that because I don't know if the suspicions were</p> <p>4 deep rooted before or during my visit.</p> <p>5 Q Okay. So your testimony is that the</p> <p>6 main purpose of your trip to Atlanta was to meet</p> <p>7 with Grant Thornton?</p> <p>8 A Yes.</p> <p>9 Q And that --</p> <p>10 A And our finance team of course.</p> <p>11 Q Okay. Your finance team for like a</p> <p>12 regular meeting or was there a specific purpose?</p> <p>13 A Well, we were in the middle of</p> <p>14 litigation with RLI and we still had temps, I</p> <p>15 believe, at the time. And my goal was to see how</p> <p>16 things were going and to see whether or not any of</p> <p>17 the temps would be joining our team permanently.</p> <p>18 Q Did you communicate with Ms. Barnes by</p> <p>19 text?</p> <p>20 A I believe so. I would communicate with</p> <p>21 everybody by text sometimes.</p> <p>22 Q And did you communicate with</p>	<p>99</p> <p>1 Q Okay. But it could be in a text,</p> <p>2 right?</p> <p>3 A It seems unlikely, but it could be.</p> <p>4 Q Okay. How often did you communicate</p> <p>5 with Mr. Okonski?</p> <p>6 A I communicated with my senior</p> <p>7 leadership team probably 20 or 30 times a day.</p> <p>8 Q Okay. And are those communications</p> <p>9 verbal, email, and text?</p> <p>10 A Yes.</p> <p>11 Q Okay. Prior to the preliminary</p> <p>12 injunction hearing in this matter, Nexus was</p> <p>13 preparing profit and loss statements, right?</p> <p>14 MS. PETERS: Object to form.</p> <p>15 A Prior to preliminary injunction</p> <p>16 hearing, Nexus would have some financial</p> <p>17 documents. As to what they were, I mean, I don't</p> <p>18 have them in front of me so I don't know what we</p> <p>19 had.</p> <p>20 Q Do you not recall that Nexus was</p> <p>21 preparing profit and loss statements to present to</p> <p>22 the court for the preliminary injunction hearing?</p>
<p>98</p> <p>1 Mr. Okonski regarding financial statements via</p> <p>2 text?</p> <p>3 A In regards to Ms. Barnes' situation?</p> <p>4 Q With regard to preparing financial</p> <p>5 statements in general.</p> <p>6 A I don't recall. I mean, it would have</p> <p>7 been -- if someone said do we do a statement?</p> <p>8 Then, yes. If you're asking me specifically, I</p> <p>9 don't -- I don't know what you're asking me.</p> <p>10 Q Would you text Mr. Okonski details in</p> <p>11 texts, such as review line item X for, you know,</p> <p>12 \$200,000 and remove from statement?</p> <p>13 A No. Definitely not. The only times</p> <p>14 we'd have conversations about stuff like that is</p> <p>15 if there's a situation where it's -- things were</p> <p>16 mislabeled. It was never removed, it was always</p> <p>17 hey, is this categorized properly or something</p> <p>18 like that, and that's it.</p> <p>19 Q Okay. And those would be communicated</p> <p>20 by text?</p> <p>21 A Or phone call or email. It just</p> <p>22 depends on what's happening at that moment.</p>	<p>100</p> <p>1 MS. PETERS: Object to form.</p> <p>2 A I know we had a team working on stuff</p> <p>3 in finance, but I did not know what they were</p> <p>4 working on. A lot of legal stuff I let the</p> <p>5 lawyers handle and I'll talk to Okonski and our</p> <p>6 team about it.</p> <p>7 Q All right. So you didn't -- you</p> <p>8 weren't aware of the -- what the finance team was</p> <p>9 doing to prepare profit and loss statements?</p> <p>10 A I knew they were -- I knew they were</p> <p>11 generating reports. As my background is not</p> <p>12 finance, I just work with our team to facilitate</p> <p>13 things.</p> <p>14 Q What is your background?</p> <p>15 A Business, obviously. Retail.</p> <p>16 Q And what about is there a distinction</p> <p>17 between your finance team and a risk management</p> <p>18 team?</p> <p>19 A Yes.</p> <p>20 Q Okay. And who's your risk management</p> <p>21 team?</p> <p>22 A Those are our risk managers in the</p>

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26 (101 to 104)

<p>101</p> <p>1 field.</p> <p>2 Q Okay. What about for bond breaches?</p> <p>3 Is there a different group than the finance team</p> <p>4 who looks at the bond breach notices that come in?</p> <p>5 A Yes.</p> <p>6 Q Who is that?</p> <p>7 A It would be Hazzar Perdomo and Jesus</p> <p>8 Batista.</p> <p>9 Q And prior to Hazzar and Jesus, was</p> <p>10 there anybody else who would review the bond</p> <p>11 breach notices?</p> <p>12 A Tania Cortes.</p> <p>13 Q Did Ms. Hurst or Ms. Cash or anyone</p> <p>14 else on the finance team ever -- were they ever</p> <p>15 involved in the risk management?</p> <p>16 A No.</p> <p>17 Q Okay. When Nexus decided to put its</p> <p>18 finances into QuickBooks, do you know when did</p> <p>19 that start?</p> <p>20 MS. PETERS: Object to the form of the</p> <p>21 question to the extent that it assumes that Nexus</p> <p>22 decided to.</p>	<p>103</p> <p>1 A I don't remember.</p> <p>2 Q Were you one of the people who made the</p> <p>3 decision?</p> <p>4 A I don't -- I don't remember if it was</p> <p>5 my decision.</p> <p>6 Q Who else's decision would it be?</p> <p>7 A I don't remember.</p> <p>8 Q Okay. Well, you're the vice president</p> <p>9 of the company, right?</p> <p>10 A Yes.</p> <p>11 Q So you have authority to make that</p> <p>12 decision?</p> <p>13 A I had the authority to make the</p> <p>14 decision, yes.</p> <p>15 Q Okay. And you don't know whether you</p> <p>16 made it or somebody else?</p> <p>17 A No. I do know we used QuickBooks. I</p> <p>18 do not know when the decision to do so or who</p> <p>19 actually made the final decision to do so, whether</p> <p>20 it was me or somebody else. I do not recall.</p> <p>21 Q Are you responsible for determining</p> <p>22 which bills get paid?</p>
<p>102</p> <p>1 A I'm unable to answer that question</p> <p>2 because I don't know.</p> <p>3 Q Okay. Who would know that question?</p> <p>4 MS. PETERS: Object to form.</p> <p>5 A I -- I don't know.</p> <p>6 Q So it wasn't you who said let's --</p> <p>7 A No, you didn't ask me who made the</p> <p>8 original decision. You asked me when was the</p> <p>9 decision made and who would know.</p> <p>10 If a conversation took place in regards</p> <p>11 to, let's use QuickBooks, I was part of that</p> <p>12 conversation. But when it happened, I don't know.</p> <p>13 Q Okay. Would you be the one who</p> <p>14 ultimately determined to proceed by putting --</p> <p>15 entering your finances into QuickBooks?</p> <p>16 A I would be part of the process.</p> <p>17 Q Who else would be involved in the</p> <p>18 process?</p> <p>19 A I honestly don't remember.</p> <p>20 Q Who would make the -- who made the</p> <p>21 determination on behalf of Nexus to maintain their</p> <p>22 finances on QuickBooks?</p>	<p>104</p> <p>1 MS. PETERS: Object to form.</p> <p>2 A In some situations, yes.</p> <p>3 Q What situations?</p> <p>4 A If it's a larger bill, or when we had</p> <p>5 our finance team not as organized as it is getting</p> <p>6 now, then I would be more involved in the</p> <p>7 day-to-day operations of it.</p> <p>8 Q Okay. And are you the one who is</p> <p>9 responsible for determining which bond breach</p> <p>10 payments get paid?</p> <p>11 MS. PETERS: Object to form.</p> <p>12 A No.</p> <p>13 Q Who makes that decision?</p> <p>14 A An email sent from the bond breach</p> <p>15 chief saying this payment is due.</p> <p>16 Q I'm sorry. That makes -- they make the</p> <p>17 decision? Who does?</p> <p>18 MS. PETERS: Object to the form.</p> <p>19 A An email sent saying that this payment</p> <p>20 is due, this invoice is due. And the check is cut</p> <p>21 for it.</p> <p>22 Q Where is an email sent from?</p>

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27 (105 to 108)

105

1 **A Husar Perdomo.**
2 Q Okay. So Husar Perdomo sends an email
3 to you.
4 MS. PETERS: Object to form.
5 **A To me and several other people.**
6 Q Okay. Who else would be on that email?
7 **A I – I don't know.**
8 Q Okay. And says this payment needs to
9 be made, right?
10 **A Yes.**
11 Q And then do you make the decision
12 whether to pay it?
13 MS. PETERS: Object to form.
14 **A If an invoice is due for an obligation**
15 **to the government or to one of our sureties, then,**
16 **yes, we pay it.**
17 Q Now, I'm asking you on a daily basis do
18 you determine which bills to pay?
19 MS. PETERS: Object to the form of the
20 question. Asked and answered.
21 **A I believe I've answered that question**
22 **already.**

106

1 Q So the answer is you don't?
2 MS. PETERS: Object to the form of the
3 question.
4 **A My answer was that in some cases I'm**
5 **involved and other cases that our finance team**
6 **pays invoices based off the aging report.**
7 Q All right. With regard to bond
8 breaches, aren't you the one who writes to your
9 finance team and says pay this bill today, pay
10 this invoice today?
11 MS. PETERS: Object to form.
12 **A I am the one when an email comes in, I**
13 **will forward it to finance saying this is approved**
14 **or pay this today, yes.**
15 Q And isn't it true that you -- not even
16 when an email comes in. Aren't you the one who
17 sends out emails to your team saying please pay
18 these two invoices today, let's say?
19 MS. PETERS: Object to form.
20 **A I would get the information to somebody**
21 **else saying that they're due.**
22 Q Right, there'd be a whole list.

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1 **A But that would be -- well, if there's**
2 **different due days and we're not paying all at one**
3 **time then I would say pay these two now. Which is**
4 **the same thing, I got the list from somebody else.**
5 Q Is it your testimony that you pay every
6 invoice on its due date?
7 MS. PETERS: Object to the form of the
8 testimony.
9 **A I base the due date based on the**
10 **Treasury referral date after all appeals are**
11 **optioned out or unless someone from risk tells me**
12 **hey, listen this is not -- this matter is not**
13 **appealed and this matter needs to be paid.**
14 Q Okay. So when did you start
15 implementing that you would not pay bond breach
16 invoices until the Treasury date?
17 MS. PETERS: Object to the form.
18 **A The policy is that in cases where there**
19 **is an issue where the client has some sort of**
20 **relief that is possible or their attorney is**
21 **appealing or something, then those situations are**
22 **allotted a little more time before we pay the**

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1 **invoice.**
2 Q Well, you don't sit there and look into
3 each invoice that you get to see what the
4 circumstances are for each bond breach invoice, do
5 you?
6 MS. PETERS: Object to form.
7 **A No, I have employees that do that.**
8 Q And when you get -- you just testified
9 that you don't pay invoices until the Treasury
10 date?
11 **A I said --**
12 MS. PETERS: Object to form.
13 **A -- in some cases we don't.**
14 Q So in some cases you do and some cases
15 you don't?
16 MS. PETERS: Object to form.
17 **A It depends on the situation.**
18 Q And what situation is that?
19 **A There are several factors that impact**
20 **that?**
21 Q What are they?
22 **A Whether or not an appeal is filed.**

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28 (109 to 112)

<p>109</p> <p>1 Whether or not the attorney -- the client's 2 attorney is filing a motion to reopen. Whether or 3 not there is other action the client took. 4 Whether or not the government made a mistake in 5 the situation as well. 6 Q Okay. Out of the bond -- is it Nexus', 7 for lack of a better word, standard operating 8 procedure to appeal the vast majority of bonds 9 invoices? 10 MS. PETERS: Object to the form. 11 A Nexus has no standard operating 12 procedure on appealing the vast majority of 13 invoices. 14 Q Okay. Do you -- can you advise as to 15 isn't it true that the vast majority of bond 16 breaches that are received from Nexus -- that are 17 received by Nexus are appealed? 18 MS. PETERS: Object to the form of the 19 testimony. 20 A I'm unsure of that. I can look into it 21 for you, though, if you'd like. 22 Q How would you look into it?</p>	<p>111</p> <p>1 Q That would be great. I'd like you to. 2 A Please notify our counsel so I -- 3 Q Sure. Absolutely. 4 And getting back to -- in determining 5 which bills should get paid, do you review cash 6 flow or any other -- or bank accounts? What do 7 you review in order to make a determination to pay 8 an invoice? 9 A Can you please define what you mean by 10 "invoice"? Are you talking about a bond invoice 11 or just a general bill? 12 Q Well, we can take them one at a time 13 but either way. 14 A The bond invoice we pay when the breach 15 team says this invoice needs to be paid. 16 Q Who makes the decision that this 17 invoice needs to be paid? 18 A The invoice, the bond team is notified 19 by the surety of the due date. 20 Q All right. So tell me specifically, 21 give me an example. 22 So the surety tells who? Hazzar or</p>
<p>110</p> <p>1 A I don't know. I would reach out to our 2 breach team and then reach out to counsel. 3 Q You don't know sitting here today that 4 a -- that the majority of bond breaches are 5 appealed? 6 MS. PETERS: Object to the form. 7 A I do not know what percentage of -- 8 Q I'm not asking those -- 9 A Well, you asking the majority which 10 would indicate a percentage more -- 11 Q More than 50 percent? 12 A More than 50 percent. 13 Q You don't know? 14 A I don't know. 15 MS. PETERS: Object to form. Please 16 let him finish his answer. 17 Q Okay. So it's your testimony you don't 18 know whether more than 50 percent of the bond 19 breaches are appealed? 20 MS. PETERS: Object to form. 21 A No, but I'm more than glad to look into 22 that for you.</p>	<p>112</p> <p>1 Jesus? 2 A I can follow up with the bond team to 3 give you that exact information if you'd like. 4 Q Well, who's your bond team? 5 A I know that you are deposing 6 Ms. Perdomo, maybe this is a question suited for 7 her. 8 Q Do you know who your bond team is? 9 MS. PETERS: Object to the form. 10 A I've already answered that question. 11 Q I don't -- no, I'm asking. 12 A I've already answered who my breach 13 team was, my bond breach team was already. 14 Q Is your bond breach team your risk 15 management team? 16 MS. PETERS: Object to form. 17 Q Or is that different? 18 A They are in the risk management 19 department but they're a specialized team in the 20 risk management department. 21 Q Okay. And who is included in the bond 22 team?</p>

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29 (113 to 116)

113

1 **A I've already answered that question**
2 **already. Do you want me to answer it again for**
3 **you?**
4 Q Yes, please.
5 **A Sure. Hazzar Perdomo and Jesus**
6 **Batista.**
7 Q All right. And then before that Tania
8 Cortes?
9 **A Yes.**
10 Q And is it your testimony that they have
11 the authority to determine whether a bond breach
12 should be paid?
13 MS. PETERS: Object to form.
14 **A They have the authority to communicate**
15 **that this invoice is due and needs to be paid.**
16 Q Right. And you're the one who
17 determines whether to pay it or not, correct?
18 MS. PETERS: Object to form.
19 **A Yes. After I'm told that it needs to**
20 **be paid.**
21 Q Well, you're told an invoice is due.
22 **A Yes.**

114

1 Q And then you make the decision whether
2 to pay it or not, correct?
3 **A Yes.**
4 MS. PETERS: Object to the form.
5 Q And in determining what to pay, do you
6 look at any reports, bank accounts? What do you
7 look at to make the decision to pay an invoice?
8 MS. PETERS: Object to form.
9 **A Our normal cash flow operations and we**
10 **pay invoices -- sometimes we're late. We try to**
11 **pay invoices as close on time as we can.**
12 Q Okay. But getting back to what you
13 look at. Do you log on to your computer and look
14 up all the bank accounts to see the balances in
15 the bank accounts?
16 **A No.**
17 Q Okay. What do you?
18 **A I usually go to the KPI and see where**
19 **we're at.**
20 Q Is there any other documents or reports
21 you look at?
22 **A No.**

115

1 Q Okay. And if there's not enough
2 revenue in the KPI to pay all the bills, how do
3 you determine what gets paid?
4 MS. PETERS: Object to form.
5 **A Like all businesses do, we prioritize.**
6 Q Okay. And how do you prioritize?
7 MS. PETERS: Object to form.
8 Overbroad.
9 **A Can you please clarify what you mean by**
10 **how we prioritize?**
11 Q Well, how do you prioritize paying a
12 bond breach, one bond breach payment over another
13 versus an invoice for, I don't know, AT&T?
14 MS. PETERS: Object to form.
15 **A Well, bond breaches are our first**
16 **priority.**
17 Q They take priority over paying for GPS
18 services?
19 **A Yes.**
20 Q Okay. And how do you determine which
21 bond breaches to pay over the next?
22 **A Our bond breach team tells me the dates**

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1 **that they're due.**
2 Q And what dates do you use to determine
3 when a bond breach is due?
4 **A In most of the emails I get, there are**
5 **times where it says that this is the due date and**
6 **pay it by this date. I usually don't get the**
7 **copies of all the invoices.**
8 Q And so who determines the due date to
9 put in the document they send to you?
10 MS. PETERS: Object to the form --
11 Q Or the email?
12 MS. PETERS: -- of the question. Calls
13 for speculation.
14 **A I believe it's the communication that**
15 **the bond team has with a surety; but, again, you**
16 **can follow up with Ms. Perdomo on that question.**
17 Q Well, you said 120 days. I'm trying to
18 see where you got that from.
19 **A Because 120 days would be the latest a**
20 **bond can be paid.**
21 Q And what is that understanding based
22 on?

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30 (117 to 120)

<p>117</p> <p>1 A An email, I believe, from Jody Prescott 2 stating that that's when referral to Treasury are 3 done. 4 Q So it's your practice to wait until an 5 invoice is being referred to Treasury before you 6 pay? 7 A Absolutely not. There are some times 8 where that is necessitated by the needs of the 9 client. 10 Q What are the needs of the client? 11 A As stated previously, there are times 12 where the client may be filing an appeal. Their 13 attorney's filed a motion to reopen. There are 14 times that they've gone to the wrong location. 15 Q So is Hazzar and Jesus looking into 16 each one of these files -- 17 MS. PETERS: Object to form. 18 Q -- to see if a motion to reopen has 19 been filed? 20 A Absolutely. 21 Q Okay. And do you understand that 22 according to the Department of Homeland Security,</p>	<p>119</p> <p>1 MS. PETERS: Object to the form of the 2 question to the extent it calls for a legal 3 conclusion. And this witness has already 4 indicated that he deferred to counsel on that 5 topic. 6 MS. KATSANTONIS: Well, counsel 7 certainly is not determining when an invoice is 8 due every day. So that's a ridiculous objection. 9 A I have been -- 10 MS. PETERS: I will object to that 11 mischaracterization, Ms. Katsantonis. 12 MS. KATSANTONIS: All right. 13 A I have been informed by Homeland 14 Security that all invoices need to be paid before 15 the 120th day. So that is what I take as my drop 16 dead cutoff date. 17 Q Okay. And when did you make that 18 determination? 19 MS. PETERS: Object to the form of the 20 question. 21 A I didn't make that determination. 22 Q You just said you've been informed by</p>
<p>118</p> <p>1 once an invoice is issued that the time for an 2 appeal has already passed? 3 MS. PETERS: Object to the form of the 4 question to the extent it calls for a legal 5 conclusion. 6 A I am not an expert on that aspect of 7 it. So I don't handle the appeals but I can look 8 into that for you. 9 Q So you don't have an understanding that 10 when an invoice is issued on a bond breach the 11 appeal period has run? 12 A I'm telling you that you're asking me a 13 legal question I'm not qualified to answer. 14 Q I'm just asking your understanding. 15 MS. PETERS: Object to form. The 16 witness has answered. 17 A My understanding is that I don't 18 understand the entire process when it comes to 19 appeals. That's why we hire lawyers for it. 20 Q Okay. So you don't know whether or not 21 an invoice is due when it's issued or 30 days 22 later or at the Treasury date; is that right?</p>	<p>120</p> <p>1 the Department of Treasury. When were you 2 informed? 3 A I'm sorry, I said the Department of 4 Homeland Security not Department of Treasury. 5 Q I'm sorry. 6 A That's okay. Too many agencies. 7 I was told that I believe 2017 or '18. 8 Q Okay. And so has it been your 9 practices not to pay breach -- bond breaches until 10 the Treasury date since 2017 or '18? 11 MS. PETERS: Object to the form of the 12 question. 13 A That is not what I said at all. As 14 stated previously, though, that it is our practice 15 that -- to look at each situation differently 16 because there are certain situations, again, that 17 the client may have filed an appeal. There may be 18 motion to reopen filed. There's a lot of 19 different things. There are a lot of bond cases 20 that are reopened as well. 21 Q Isn't it true that you don't have -- 22 that there are times you do not have enough cash</p>

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31 (121 to 124)

<p>121</p> <p>1 to pay bills as they become due?</p> <p>2 MS. PETERS: Object to the form of the</p> <p>3 question. Vague.</p> <p>4 A I think that as a company that's had</p> <p>5 some challenges we've had in our finance team, we</p> <p>6 probably could have done a better job of our</p> <p>7 organization. But we're getting there now, which</p> <p>8 is great.</p> <p>9 Q So that's great. But my question is</p> <p>10 just very simple. Isn't it true that there are</p> <p>11 times that you, Nexus, doesn't have enough cash to</p> <p>12 pay bills as they become due?</p> <p>13 MS. PETERS: Object to the form of the</p> <p>14 question. Vague.</p> <p>15 A I believe I've already answered the</p> <p>16 question.</p> <p>17 Q Let me ask it again and you can just</p> <p>18 humor me and answer it again.</p> <p>19 A Okay.</p> <p>20 Q Isn't it true that sometimes you don't</p> <p>21 have enough cash to pay bills as they become due?</p> <p>22 MS. PETERS: Object to the form of the</p>	<p>123</p> <p>1 overdraft fees may reach as high as 15 or 17,000</p> <p>2 in a given month?</p> <p>3 A I don't have an exact amount.</p> <p>4 MS. PETERS: Object to form.</p> <p>5 A But we're going on a break.</p> <p>6 MS. KATSANTONIS: Okay.</p> <p>7 THE VIDEOGRAPHER: We are going off the</p> <p>8 record at 17:40.</p> <p>9 (Recess taken.)</p> <p>10 THE VIDEOGRAPHER: We are back on the</p> <p>11 record at 17:44.</p> <p>12 THE WITNESS: Let me apologize to you</p> <p>13 first. I asked for a break because I was getting</p> <p>14 a little testy to you and you're just doing your</p> <p>15 job. I may not like your job right now but you're</p> <p>16 just doing your job.</p> <p>17 Q Thank you.</p> <p>18 A So I wanted to break real quick.</p> <p>19 Q No, I appreciate it. I want you to be</p> <p>20 comfortable so take as many breaks as you need.</p> <p>21 A You don't mean that. But I'm saying</p> <p>22 that I was rude to you and all you're trying to do</p>
<p>122</p> <p>1 question. Vague.</p> <p>2 A And I heard the question again.</p> <p>3 Q Yep.</p> <p>4 A And I humored you to ask the question</p> <p>5 again and I'll state that I've already answered</p> <p>6 the question.</p> <p>7 Q No. So is the answer yes or no?</p> <p>8 MS. PETERS: Object to the form of the</p> <p>9 question.</p> <p>10 A My answer is the same as it was when</p> <p>11 you asked me two minutes ago.</p> <p>12 Q Mr. Moore, you're being -- yes or no?</p> <p>13 MS. PETERS: Object to the form of the</p> <p>14 question.</p> <p>15 A There are times that -- yes, there are</p> <p>16 times that our cash flow is out of whack and we</p> <p>17 had bills that are due that we do not pay.</p> <p>18 Q And hasn't that also resulted in</p> <p>19 overdraft fees from banks?</p> <p>20 A Yes.</p> <p>21 MS. PETERS: Object to the form.</p> <p>22 Q And in fact there are times that the</p>	<p>124</p> <p>1 is your job and I appreciate that. You are a</p> <p>2 fierce advocate for your client. While I don't</p> <p>3 agree with them or you, I respect the fact that</p> <p>4 you're doing a great job for them.</p> <p>5 Q Thank you. And I want you to be</p> <p>6 comfortable and want you to take breaks whenever</p> <p>7 you -- you know, and I didn't even ask if you've</p> <p>8 been deposed before but it's --</p> <p>9 A This is my first time.</p> <p>10 Q Right.</p> <p>11 A It's not fun.</p> <p>12 Q No. So I understand totally.</p> <p>13 A Next time it's obviously going to be a</p> <p>14 little lighter than you, but it's okay.</p> <p>15 Q Thank you.</p> <p>16 MS. KATSANTONIS: I'm going to mark as</p> <p>17 an exhibit. These go together. I can represent</p> <p>18 that they came from a database together like this.</p> <p>19 A Okay.</p> <p>20 MS. KATSANTONIS: I'll have the court</p> <p>21 reporter mark it.</p> <p>22</p>

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32 (125 to 128)

<p>1 (Moore Exhibit 6 marked for 2 identification and attached to the transcript.) 3 A To clarify, are these two exhibits or 4 one exhibit? 5 Q It's one exhibit. 6 A Okay. I have to put it in a pile 7 afterwards so I wanted to make sure we're good to 8 go. We will not do last night today because I 9 care. 10 Q All right. So this is a copy of a 11 spreadsheet. I guess -- and perhaps because of 12 the date maybe you were traveling. I'm not sure. 13 This is from Hazzar to Mr. Schneider and Mike 14 Donovan. Does this look like a document that you 15 would routinely receive? 16 A Can you give me one second to -- 17 Q Sure. 18 A -- get my bearings straight here. 19 MS. PETERS: Would you read back the 20 last question, please. 21 (The requested text was read by the 22 reporter as follows: "All right. So this is a</p>	<p>125 127 1 put a fictitious document in front of me. So no, 2 I'm not saying you lied -- you're lying to me -- 3 Q Right. 4 A -- I'm just saying I don't know. I've 5 never seen it before. 6 Q But the amount due of 4.3 million, is 7 that typical of the amounts that would be due on a 8 regular basis for outstanding invoices? 9 MS. PETERS: Object to the form. 10 A I am unsure. 11 Q Well, isn't this something that you 12 would do every week, is look at what the 13 outstanding invoices are and pay them? 14 MS. PETERS: Object to the form. 15 Q Breach invoices. Let's just stick to 16 breach invoices. 17 A As I said previously, I get an email 18 outlining to me what needs to be paid. There are 19 times where I'm copied on a larger email. But I 20 don't recall seeing this number and I don't 21 recall -- I can't speak that routinely this is the 22 amount that's due on breach invoices.</p>
<p>126 1 copy of a spreadsheet. I guess -- and perhaps 2 because of the date maybe you were traveling. I'm 3 not sure. This is from Hazzar to Mr. Schneider 4 and Mike Donovan. Does this look like a document 5 that you would routinely receive?") 6 MS. PETERS: Object to the form of the 7 question. 8 A I am not copied on this email so I 9 cannot -- and I -- I do not recall ever seeing 10 this spreadsheet. 11 Q Okay. And do you recall that in 12 January of 2019 there was a total of 4.3 million 13 due to sureties on outstanding invoices? 14 MS. PETERS: Object to the form. 15 A I do not recall. 16 Q Do you have any reason to doubt the 17 accuracy of this document? 18 MS. PETERS: Object to the form of the 19 question. 20 A As I've not seen the document, I can't 21 say that I -- I can verify the document. I'm 22 saying that I have no reason to believe that you</p>	<p>128 1 Q Well, what -- do you know how much 2 Nexus is paying on a weekly basis for bond 3 breaches? 4 MS. PETERS: Object to the form of the 5 question. 6 A I know it varies each week and I don't 7 have specific invoices in front of me right now, 8 so, no, I don't. 9 Q Okay. But can you give me a range of 10 what they pay every week? 11 MS. PETERS: Object to the form of the 12 question. 13 A As it varies from week to week, then I 14 could say, no, I can't give you a range. 15 Q Okay. Well, you're the one responsible 16 for paying them every week, right? 17 MS. PETERS: Objection. 18 A I do not cut the checks. 19 Q Well, you approve the payment of the 20 bond breach invoices, right? 21 MS. PETERS: Object to the form. 22 A Yes, I do.</p>

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33 (129 to 132)

<p>129</p> <p>1 Q Okay. And so in your experience, since</p> <p>2 you're the one -- I mean, it's important to know</p> <p>3 how much money is going out just as important it</p> <p>4 is to know how much money's coming in to Nexus,</p> <p>5 right?</p> <p>6 MS. PETERS: Object to the form.</p> <p>7 A Yes.</p> <p>8 Q Right. And so obviously are the bond</p> <p>9 breach payments a significant expense that's being</p> <p>10 incurred by Nexus on a weekly basis?</p> <p>11 A The bond breach invoices are an expense</p> <p>12 that is significant to Nexus.</p> <p>13 Q Right. And so can you give me an idea</p> <p>14 of range, it doesn't have to be exact, of how much</p> <p>15 Nexus is paying on, let's go monthly first, on a</p> <p>16 monthly basis in bond breach payments?</p> <p>17 A As this is a fluctuating amount, month</p> <p>18 to month, as you know, I can't give a range.</p> <p>19 Q Okay. So for 2019, let's narrow it</p> <p>20 down, in this past year, are the fluctuations from</p> <p>21 50,000 a month to 500,000 a month or are they</p> <p>22 larger than that?</p>	<p>131</p> <p>1 have records of all the invoices paid.</p> <p>2 Q Okay. And can you -- is there a way</p> <p>3 to, on any of your databases print a document that</p> <p>4 shows how many breach -- how many bond breach</p> <p>5 invoices were paid month to month or for the year?</p> <p>6 A I believe the breach department would</p> <p>7 have that.</p> <p>8 Q Okay. And then I believe this has been</p> <p>9 asked for in litigation.</p> <p>10 MS. KATSANTONIS: I'm going to ask your</p> <p>11 counsel to provide us with that information for</p> <p>12 the years of since we initiated the program, from</p> <p>13 2016 to today.</p> <p>14 MS. PETERS: You're asking for RLI bond</p> <p>15 breach payment information? Wouldn't you have</p> <p>16 that information, Ms. Katsantonis?</p> <p>17 MS. KATSANTONIS: No. I'm asking for</p> <p>18 all breaches. You don't have to give us the names</p> <p>19 or whatever, but the amounts. It goes to the</p> <p>20 financial wherewithal of Nexus.</p> <p>21 MS. PETERS: Isn't that contained in</p> <p>22 the bank records that have already --</p>
<p>130</p> <p>1 A The fluctuations do change and as I do</p> <p>2 not have numbers in front of me I wouldn't feel</p> <p>3 comfortable with answering the question.</p> <p>4 Q So you can't give me any range</p> <p>5 whatsoever?</p> <p>6 MS. PETERS: Object to the form of the</p> <p>7 question. Argumentative.</p> <p>8 A I can tell you that there's probably a</p> <p>9 bond breach due every month. But I can't specify</p> <p>10 more than that.</p> <p>11 Q Do you know the total amount, roughly,</p> <p>12 of how much Nexus paid in bond breaches in 2019?</p> <p>13 A No, I do not.</p> <p>14 Q You don't know whether it -- the number</p> <p>15 is 2 million or 10 million; is that correct?</p> <p>16 A I do not.</p> <p>17 Q And you can't give me any range</p> <p>18 whatsoever?</p> <p>19 A To answer honestly, no, I cannot.</p> <p>20 Q Okay. And who would have that</p> <p>21 information?</p> <p>22 A I believe the breach department would</p>	<p>132</p> <p>1 MS. KATSANTONIS: No.</p> <p>2 MS. PETERS: -- been produced,</p> <p>3 Ms. Katsantonis?</p> <p>4 MS. KATSANTONIS: No, it's not.</p> <p>5 MS. PETERS: You have a record of every</p> <p>6 payment made by Nexus.</p> <p>7 MS. KATSANTONIS: Are you suggesting</p> <p>8 that RLI should go through each bank statement</p> <p>9 page by page and start adding up the bond</p> <p>10 breaches?</p> <p>11 MS. PETERS: With respect to the</p> <p>12 payments made they're contained in all the bank</p> <p>13 statements.</p> <p>14 MS. KATSANTONIS: No, they're not,</p> <p>15 Ms. Donne Peters. We just had a statement from</p> <p>16 the witness that the information is available on a</p> <p>17 database.</p> <p>18 Can you please --</p> <p>19 MS. PETERS: He did not testify to</p> <p>20 that.</p> <p>21 MS. KATSANTONIS: Can you please</p> <p>22 provide that information on the database that he</p>

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34 (133 to 136)

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1 said the bond breach department would have.
2 MS. PETERS: Ms. Katsantonis, he did
3 not testify that there's a special database. He
4 said he --
5 MS. KATSANTONIS: I didn't say a
6 special database. I said there was a database.
7 What do you mean special?
8 MS. PETERS: You just said database and
9 I don't -- let me ask that we read back the
10 witness's answer, the last question/answer. If I
11 fluctuated on my attention, then forgive me but
12 I'd like to see what he just said, please.
13 **A Are we done with this?**
14 Q No, let's hear what you said.
15 MS. PETERS: You have to wait a minute.
16 (The requested text was read by the
17 reporter as follows: "Okay. And can you -- is
18 there a way to, on any of your databases print a
19 document that shows how many breach -- how many
20 bond breach invoices were paid month to month or
21 for the year?
22 **A. I believe the breach department**

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1 would have that.")
2 MS. PETERS: I'm sorry. I didn't hear
3 that answer. If they have it, I'll produce it.
4 MS. KATSANTONIS: Thank you.
5 **A The breach department would have the**
6 **records of invoices that are paid. It's not a**
7 **special system. They would have the records.**
8 Q Sure, but you can compile that just how
9 these spreadsheets are prepared, right.
10 MS. PETERS: Object to the form.
11 Are you asking him to go out --
12 MS. KATSANTONIS: My gosh --
13 MS. PETERS: -- and make a database?
14 MS. KATSANTONIS: -- Mary Donne, please
15 stop interrupting.
16 MS. PETERS: I'm --
17 MS. KATSANTONIS: I'm answering -- I'm
18 ask -- he can answer the question and then you can
19 ask your -- we can talk about it afterwards. I'm
20 asking the witness.
21 MS. PETERS: Okay.
22 Q And this information is maintained on a

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1 database, correct, just as how these sheets are
2 compiled?
3 MS. PETERS: Object to form.
4 **A This, if I'm not mistaken, would be an**
5 **Excel spreadsheet. A database would indicate some**
6 **kind of software program that is a specific**
7 **program like a CRM or something. This -- I**
8 **believe this is a spreadsheet, correct?**
9 Q I'm asking. You can generate a report
10 that shows all the payments made for bond breach
11 payments, right?
12 **A I believe so.**
13 Q Right.
14 MS. KATSANTONIS: So I would ask for a
15 copy of that report. If you want me to start
16 showing you some of the reports you have, I can do
17 so.
18 MS. PETERS: If you have the reports,
19 Ms. Katsantonis, then why are you asking me for
20 them again?
21 MS. KATSANTONIS: I don't have a report
22 for all of the bond breaches per month as I've

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1 just asked for for the year.
2 MS. PETERS: Now you're asking him to
3 create a special report. That's what I'm getting.
4 Are you asking him to create a special
5 report for you?
6 MS. KATSANTONIS: I'm asking for Nexus
7 to provide us information we've asked for in
8 discovery and that is whether that means they have
9 to generate a report to comply, then the answer is
10 yes. Okay?
11 MS. PETERS: I'm going to not discuss
12 discovery in the middle of a deposition and I
13 don't agree with your assertions. But we'll take
14 it up at the break.
15 MS. KATSANTONIS: Okay. The witness
16 has indicated that he could answer the question
17 with the information, and I'm going to ask that
18 the information be provided.
19 **A The witness would clarify the fact that**
20 **this department would have -- should have the**
21 **information. Is there a report or database**
22 **available with all the information on it? The**

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35 (137 to 140)

<p>137</p> <p>1 witness does not know. But this information would</p> <p>2 be -- should be available in that department.</p> <p>3 Q Right. And the information can be</p> <p>4 pulled from the -- from a database to --</p> <p>5 A Well --</p> <p>6 Q Right?</p> <p>7 MS. PETERS: Object to form. He's</p> <p>8 speculating.</p> <p>9 A Well, what I'm saying is that</p> <p>10 information should be available in files. But I</p> <p>11 don't know whether or not there's a database or a</p> <p>12 spreadsheet with the information on it.</p> <p>13 Q And isn't it true that you have the</p> <p>14 capability to print out payments by surety and by</p> <p>15 date?</p> <p>16 MS. PETERS: Object to the form.</p> <p>17 Payments for what?</p> <p>18 Q For bond breaches.</p> <p>19 MS. PETERS: Objection, form.</p> <p>20 A I'm sorry, I'm confused right now.</p> <p>21 What do you mean by printing out, like, copies? I</p> <p>22 mean --</p>	<p>139</p> <p>1 A So in -- there are certain times where</p> <p>2 invoices, as you are aware, your client is holding</p> <p>3 money right now, for invoices that we returned to</p> <p>4 them by Homeland Security. There are times where</p> <p>5 an invoice is paid and then the item is refunded</p> <p>6 back. So -- because the case is reopened. As you</p> <p>7 saw an email between -- the exchange between me</p> <p>8 and Ms. Piispanen the other day. So that's why I</p> <p>9 referred you over to our breach team because they</p> <p>10 would know whether or not the case is actually</p> <p>11 closed or not.</p> <p>12 Q Okay. But I'm not asking that</p> <p>13 question. What I'm asking is you have available</p> <p>14 to you from some computer database the ability to</p> <p>15 print the breaches invoices that have been paid?</p> <p>16 MS. PETERS: Object to form.</p> <p>17 A By surety?</p> <p>18 MS. PETERS: Would you please not raise</p> <p>19 your voice to my client?</p> <p>20 MS. KATSANTONIS: I'm not raising my</p> <p>21 voice, but thank you.</p> <p>22 A Well, this was a spreadsheet put</p>
<p>138</p> <p>1 Q You can print --</p> <p>2 MS. KATSANTONIS: Mark this.</p> <p>3 MS. PETERS: Please hand it</p> <p>4 respectfully, Ms. Katsantonis.</p> <p>5 MS. KATSANTONIS: Sure.</p> <p>6 A Am I done with this one yet or no, this</p> <p>7 current one here or should I leave this one out as</p> <p>8 well?</p> <p>9 Q You can be done with it for now.</p> <p>10 A Okay.</p> <p>11 MS. PETERS: Which exhibit are we on,</p> <p>12 please?</p> <p>13 THE WITNESS: 7.</p> <p>14 (Moore Exhibit 7 marked for</p> <p>15 identification and attached to the transcript.)</p> <p>16 Q So I've handed you an exhibit dated</p> <p>17 August 19th at the top from Richard Moore to Mike</p> <p>18 Donovan, RLI payments.</p> <p>19 So you have the capability, don't you,</p> <p>20 Mr. Moore, to print out a list of payments made</p> <p>21 for bond breaches?</p> <p>22 MS. PETERS: Object to form.</p>	<p>140</p> <p>1 together?</p> <p>2 Q Okay. And how is that -- how did you</p> <p>3 prepare the spreadsheet?</p> <p>4 MS. PETERS: Object to the form.</p> <p>5 A I did not prepare the spreadsheet.</p> <p>6 Q Who prepared the spreadsheet?</p> <p>7 A It looks like this was created by --</p> <p>8 this was forwarded from Elizabeth Hurst.</p> <p>9 Q And Ms. Hurst is gathering this</p> <p>10 information from a database?</p> <p>11 MS. PETERS: Object to the form. Calls</p> <p>12 for speculation.</p> <p>13 A I am unsure where she got this</p> <p>14 information from.</p> <p>15 Q I'm just going to cut -- you know, I'm</p> <p>16 just trying -- clearly Nexus has the capability,</p> <p>17 correct, to identify payments made for bond</p> <p>18 breaches, right?</p> <p>19 A Yes.</p> <p>20 Q Right. And so I'm simply asking that</p> <p>21 Nexus provide to us copies of -- or provide the</p> <p>22 information of all bond breach payments paid for</p>

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36 (141 to 144)

<p>141</p> <p>1 the last three years.</p> <p>2 MS. PETERS: Object to the form.</p> <p>3 MS. KATSANTONIS: So I'm asking you to</p> <p>4 provide that, okay?</p> <p>5 MS. PETERS: You made your statement</p> <p>6 and Nexus will respond as required by court order</p> <p>7 and the federal rules.</p> <p>8 MS. KATSANTONIS: Okay. Well, I've</p> <p>9 made my request and if we don't receive the data</p> <p>10 by next Wednesday we'll bring it to the attention</p> <p>11 of the court.</p> <p>12 MS. PETERS: I'm sure you will.</p> <p>13 Q So Mr. Moore, do you know why you were</p> <p>14 forwarding to Mr. Donovan on August of 2018 a list</p> <p>15 of the RLI bond breach payments?</p> <p>16 A I do not.</p> <p>17 Q When you receive information from</p> <p>18 the -- your bond -- what did you refer them to,</p> <p>19 your bond group?</p> <p>20 A Bond breach team.</p> <p>21 Q Okay. Your bond breach team. Is it</p> <p>22 also in a spreadsheet format?</p>	<p>143</p> <p>1 A I get an email saying that this bond</p> <p>2 breach is due.</p> <p>3 Q So do you get an email per invoice or</p> <p>4 do you get an email that lists a series of</p> <p>5 invoices?</p> <p>6 A It depends.</p> <p>7 Q What does it depend on?</p> <p>8 A Well, there are times when it's a</p> <p>9 lovely letter from Watt Tieder that just makes</p> <p>10 everybody's day with a long list of due dates.</p> <p>11 You've seen those letters I think.</p> <p>12 Q I believe so.</p> <p>13 A You've signed a few of those. So those</p> <p>14 letters we -- you know, it's very clear when</p> <p>15 they're due. And I will thank you for that</p> <p>16 because it's crystal clear.</p> <p>17 Obviously those have a spreadsheet</p> <p>18 chart attached and those are done. And then there</p> <p>19 are times where it may be one.</p> <p>20 Q Then there times, pardon?</p> <p>21 A Where it may just be one.</p> <p>22 Q Okay. Isn't it true that the Nexus</p>
<p>142</p> <p>1 A It depends on what information it is</p> <p>2 and when it is.</p> <p>3 Q All right. And -- well, for bond</p> <p>4 breaches for sureties, are they -- is there an</p> <p>5 Excel spreadsheet that's produced and given to you</p> <p>6 on a daily basis or weekly basis?</p> <p>7 A There is not.</p> <p>8 Q Okay.</p> <p>9 A There are times where I do get</p> <p>10 spreadsheets but it's not on a daily or weekly</p> <p>11 basis.</p> <p>12 Q How often do you get the spreadsheets?</p> <p>13 A I honestly couldn't tell you.</p> <p>14 Q Okay. But you get spreadsheets that</p> <p>15 list the due dates, the invoices, the bond amounts</p> <p>16 and the surety?</p> <p>17 A I'm copied on several spreadsheets and</p> <p>18 I -- I don't know what each one is until I open</p> <p>19 it. And I don't -- I don't recall getting that on</p> <p>20 a regular basis.</p> <p>21 Q Okay. So what document do you get</p> <p>22 every week to decide what bond breaches to pay?</p>	<p>144</p> <p>1 financial statements to date, that have been</p> <p>2 produced to RLI to date, don't include as a</p> <p>3 liability bond breach invoices?</p> <p>4 A I don't have the financial documents</p> <p>5 provided to RLI. Do you have a copy of them you</p> <p>6 can show me?</p> <p>7 Q Sure. I have plenty of them. You</p> <p>8 don't know --</p> <p>9 A I figured you would.</p> <p>10 Q You don't know, sitting here, that the</p> <p>11 bond breach invoices are not included on the</p> <p>12 financial statements until they are paid?</p> <p>13 A I did not see any financial documents</p> <p>14 turned over to RLI. So if you could just show me</p> <p>15 so I could refresh myself.</p> <p>16 Q Well --</p> <p>17 MS. PETERS: Object to the form because</p> <p>18 that's not her question.</p> <p>19 THE WITNESS: Okay.</p> <p>20 Q No, but -- yeah. So my question is not</p> <p>21 what's been turned over to RLI, but in preparing</p> <p>22 your profit and loss statement, or your balance</p>

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37 (145 to 148)

<p>145</p> <p>1 sheet, up through 2019, isn't it true that the 2 statements do not include as a liability bond 3 breach invoices? 4 MS. PETERS: Object to the form of the 5 question. You haven't asked him -- you haven't 6 put a document in front of him. So I'm going to 7 object to the form of the question. 8 MS. KATSANTONIS: I'm asking him in 9 general for all of his profit and loss statements 10 and balance sheets. If he doesn't know that 11 answer, then he can just -- 12 MS. PETERS: Ms. Katsantonis -- 13 Q Do you know the answer to that? 14 MS. PETERS: Ms. Katsantonis, that's an 15 unfair question. Object to the form of the 16 question. 17 MS. KATSANTONIS: Okay. 18 A I will say that a bond breach is not an 19 invoice. 20 Q When you receive an invoice -- let me 21 ask you this another way. Isn't it true that 22 Nexus does not carry on its profit and loss</p>	<p>147</p> <p>1 MS. KATSANTONIS: I do somewhere. 2 We'll go ahead and mark it. 3 A Okay. Give it to her first. 4 (Moore Exhibit 8 marked for 5 identification and attached to the transcript.) 6 A You've got a system. 7 MS. PETERS: Before the witness answers 8 the question, I'm going to object to this line of 9 questioning insofar as in the reports of the 10 special master and in discovery responses to 11 counsel -- 12 MS. KATSANTONIS: Are you going to -- 13 MS. PETERS: Nexus Services has advised 14 counsel that the documents have been continually 15 updated. This one lists January through December 16 of 2018. 17 MS. KATSANTONIS: I feel like you're 18 trying to testify. 19 MS. PETERS: I'm objecting because 20 unless you tell the witness when this was 21 generated, it will not inform him as to what is 22 included in it.</p>
<p>146</p> <p>1 statements or balance sheets, at least through 2 2019, any liability for bond breaches until 3 they're actually paid? 4 A Well, if you have -- obviously you have 5 a document. If you want to show me the document 6 you're referring to so I can -- 7 Q Well, I can show you one but I won't 8 mark this yet. 9 A Okay. 10 Q But I don't think -- 11 MS. PETERS: I'm going to object to the 12 form of the question. 13 Q This is Eckert Nexus 027806. 14 A Okay. And we don't want to mark it 15 yet, right? 16 Q Right. I just want you to look at it. 17 MS. PETERS: Can you tell him when that 18 report was generated, Ms. Katsantonis? 19 MS. KATSANTONIS: We just received it 20 in discovery. 21 MS. PETERS: And do you have a copy for 22 me to review?</p>	<p>148</p> <p>1 MS. KATSANTONIS: Okay. 2 Ms. Donne Peters, this was given to us in 3 discovery. On the last page it says Tuesday, 4 January 28th, 2020. 5 MS. PETERS: That tells you when it was 6 printed, Ms. Katsantonis. 7 MS. KATSANTONIS: Okay. Well, 8 Ms. Donne Peters these are your financial records 9 not mine. So how would I know? 10 MS. PETERS: Object, Ms. Katsantonis. 11 MS. KATSANTONIS: Well, you're asking 12 ridicu -- please don't interfere with my 13 deposition. 14 MS. PETERS: We need financial 15 records -- 16 MR. KOWALCZUK: Object to the form. 17 MS. PETERS: -- that span a period 18 of -- 19 MS. KATSANTONIS: You can object to the 20 form. 21 MS. PETERS: -- many years. 22 MS. KATSANTONIS: We don't need your</p>

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38 (149 to 152)

<p>149</p> <p>1 testimony on the record.</p> <p>2 MS. PETERS: Object to the form of the</p> <p>3 question. It is an unfair question to ask this</p> <p>4 witness.</p> <p>5 A I do not see – I do not see a line</p> <p>6 item on here that specifies bond beaches.</p> <p>7 Q Okay. And do you know when are bond</p> <p>8 breach invoices recorded in QuickBooks?</p> <p>9 A I believe they're recorded – actually,</p> <p>10 no, I don't know for sure, but I believe they're</p> <p>11 recorded at the time the check is cut, as there</p> <p>12 are several times that bond breaches – or bond</p> <p>13 invoices are rescinded. As your --</p> <p>14 Q And so --</p> <p>15 A -- client knows as well.</p> <p>16 Q -- to the best of your knowledge the</p> <p>17 liability for bond breaches are not carried on the</p> <p>18 financial statements of Nexus Services; is that</p> <p>19 true?</p> <p>20 MS. PETERS: Object to the form of the</p> <p>21 question.</p> <p>22 A I'm sorry, can you repeat the question.</p>	<p>151</p> <p>1 (The requested text was read by the</p> <p>2 reporter as follows: "And so to the best of your</p> <p>3 knowledge the liability for bond breaches are not</p> <p>4 carried on the financial statements of Nexus</p> <p>5 Services; is that true?")</p> <p>6 A If the checks are cut in QuickBooks</p> <p>7 then they would be on the financial statement of</p> <p>8 Nexus.</p> <p>9 Q So only after a check was cut would a</p> <p>10 liability show up in the financial statements of</p> <p>11 Nexus; is that correct?</p> <p>12 A I'm unsure because it would have to</p> <p>13 be -- the only way we cut checks is through</p> <p>14 QuickBooks. So I'm unsure whether or not they put</p> <p>15 every -- whether or not the documents that the</p> <p>16 bond invoice are keyed in QuickBooks or not,</p> <p>17 beforehand.</p> <p>18 Q To the best of your knowledge, they're</p> <p>19 not included in QuickBooks until a check is cut;</p> <p>20 is that correct?</p> <p>21 A I don't have QuickBooks in front of me,</p> <p>22 so I do not -- I do not believe they are in</p>
<p>150</p> <p>1 (The requested text was read by the</p> <p>2 reporter as follows: "And so to the best of your</p> <p>3 knowledge the liability for bond breaches are not</p> <p>4 carried on the financial statements of Nexus</p> <p>5 Services; is that true?")</p> <p>6 MS. PETERS: Object to the form of the</p> <p>7 question. The witness has already testified that</p> <p>8 when a check is cut, it goes on there.</p> <p>9 MS. KATSANTONIS: Okay. So now I'm</p> <p>10 asking it a different way.</p> <p>11 Q Can you answer the question?</p> <p>12 A I'm sorry. I'm not -- I'm not trying</p> <p>13 to be difficult.</p> <p>14 Q It's not you --</p> <p>15 A Can you --</p> <p>16 Q -- it's your counsel.</p> <p>17 A Can you repeat it one more time?</p> <p>18 MS. PETERS: Let's be courteous,</p> <p>19 Ms. Katsantonis.</p> <p>20 MS. KATSANTONIS: I'm sorry. But,</p> <p>21 please, go ahead.</p> <p>22 Could you read the question.</p>	<p>152</p> <p>1 QuickBooks until said point where a check is cut.</p> <p>2 Q Thank you.</p> <p>3 A And again, I'm not trying to be</p> <p>4 difficult with you. I'm trying to answer</p> <p>5 honestly.</p> <p>6 Q I appreciate that.</p> <p>7 A But, again, those invoices, we do</p> <p>8 receive cancellations for invoices all the time.</p> <p>9 Q Okay. And would Nexus write checks and</p> <p>10 not deliver them for a period of time?</p> <p>11 MS. PETERS: Object to form.</p> <p>12 A Can you give me -- I mean obviously you</p> <p>13 have something in mind. Can you give me a</p> <p>14 specific example?</p> <p>15 Q Well, were there times when Nexus would</p> <p>16 write a check for a payment of something that's</p> <p>17 due but not deliver that check to the creditor for</p> <p>18 a period of time?</p> <p>19 MS. PETERS: I'm going to object to the</p> <p>20 form of the question to the extent that you put a</p> <p>21 check in the mail it's not delivered to the</p> <p>22 creditor timely.</p>

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39 (153 to 156)

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1 MS. KATSANTONIS: Okay. Again. That's
2 not an appropriate objection and you know that.
3 MS. PETERS: I disagree.
4 **A There are times where the checks are**
5 **cut on a Friday and mailed out on Monday. There**
6 **are times where, example, your client,**
7 **Ms. Piispanen, had to have Chris Florian search**
8 **the deposit room in Vermont for a check that was**
9 **there that they lost. It wasn't our fault.**
10 Q Okay. I'm asking about at Nexus.
11 Did you -- we can talk about how
12 frequently, okay? But would Nexus write checks,
13 either eChecks or handwritten checks, and hold on
14 to them, and I'm not talking about from Friday to
15 Monday, but not deliver them for a period of time,
16 say, a week or two weeks?
17 **A Nexus does not --**
18 MS. PETERS: Object to form.
19 **A I'm sorry?**
20 MS. PETERS: Object to form. Go ahead.
21 **A Nexus does not do handwritten checks**
22 **anymore.**

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1 Q At any time has Nexus written checks or
2 created checks or eChecks, generated a payment but
3 due to insufficient funds didn't yet deliver them,
4 mail them?
5 **A If any check was held, it would not be**
6 **because of insufficient funds, it would be just**
7 **because we would cut some checks on a certain time**
8 **and then be released a little later but not**
9 **because of insufficient funds.**
10 Q Why would it be released later?
11 **A There are times that we just -- let's**
12 **say, it's Wednesday and we're cutting all these**
13 **checks on this date. Some of them aren't due**
14 **until later on. And we try to move away from**
15 **cutting checks every day.**
16 Q So it's your testimony that, to your
17 knowledge, Nexus never issued or created a check,
18 eCheck or handwritten check or any sort of check
19 and held on to it due to insufficient funds?
20 MS. PETERS: Object to form. Calls for
21 speculation.
22 **A It's my testimony that there are**

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1 **different situations that we do that and I can't**
2 **recall one that could tell you that that's the**
3 **reason why.**
4 Q Well, what are all the reasons why the
5 checks would be held?
6 **A Somebody's going on vacation, we cut**
7 **them in advance.**
8 Q But you would hold them?
9 **A The due date's not done. There's**
10 **different reasons, yes.**
11 Q But it's your testimony you've never
12 held -- cut a check, generated a check, prepared a
13 check, but held on to it for a period of time due
14 to insufficient funds?
15 **A It's my --**
16 MS. PETERS: Object to the form.
17 **A It's my situation that in all the**
18 **checks in the company's history I do not recall**
19 **that situation.**
20 Q Okay. And do you -- is it -- would you
21 agree that it is -- that frequently Nexus was
22 issuing checks that were returned for insufficient

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1 funds?
2 MS. PETERS: Object to form.
3 **A I would say that while that may happen**
4 **from time to time it is because we had a**
5 **disorganized finance team.**
6 Q So the reason you were getting those
7 notices were for disorganized finance team not
8 because there was insufficient funds?
9 MS. PETERS: Object to form.
10 **A I would say that as we've evolved we've**
11 **changed a lot of our practices.**
12 Q Well, that's not my question. My
13 question is isn't it true that you would have --
14 that checks were returned because of insufficient
15 funds?
16 **A Any --**
17 MS. PETERS: Object to form.
18 **A Those insufficient funds checks were**
19 **always made right.**
20 Q That's -- so the answer's yes?
21 MS. PETERS: Object to the form of the
22 question.

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40 (157 to 160)

<p>157</p> <p>1 A My answer is if any checks were</p> <p>2 returned insufficient then it would have been</p> <p>3 reimbursed to the recipient.</p> <p>4 Q Would you send a copy of a check to a</p> <p>5 creditor more than a day or two before actually</p> <p>6 sending the check out?</p> <p>7 MS. PETERS: Object to the form of the</p> <p>8 question.</p> <p>9 A I —</p> <p>10 MS. PETERS: Go ahead.</p> <p>11 Q Go ahead.</p> <p>12 A I did not send checks out. And the</p> <p>13 reason there have been delays is sometimes that</p> <p>14 finance may have delayed sending them out.</p> <p>15 Q Okay.</p> <p>16 MS. PETERS: Can we take a quick bio</p> <p>17 break? We've been going at it about an hour.</p> <p>18 MR. HARRIS: We just have nine minutes</p> <p>19 until 6:30.</p> <p>20 MS. PETERS: Excuse me?</p> <p>21 MR. HARRIS: We only have nine minutes</p> <p>22 until 6:30.</p>	<p>159</p> <p>1 and payments, right?</p> <p>2 A Uh-huh.</p> <p>3 Q Okay. So I'm looking at this statement</p> <p>4 and in looking at the second page, there are bank</p> <p>5 charges for \$495,950.</p> <p>6 Do you know what those charges would be</p> <p>7 for?</p> <p>8 A I do not.</p> <p>9 Q Do you know what charges are included</p> <p>10 in that category?</p> <p>11 A I do not.</p> <p>12 Q Who would know that?</p> <p>13 MS. PETERS: Object to the form. Calls</p> <p>14 for speculation.</p> <p>15 A Our finance team.</p> <p>16 Q Who specifically in the finance team</p> <p>17 would know that?</p> <p>18 MS. PETERS: Object to the form.</p> <p>19 A Whoever keyed them in.</p> <p>20 Q Well, if you wanted to explain where</p> <p>21 those -- the 495,000 charge is, who would you</p> <p>22 call? What would you do to find out --</p>
<p>158</p> <p>1 MS. KATSANTONIS: We only have nine</p> <p>2 minutes until 6:30 which is when you wanted to</p> <p>3 stop the deposition.</p> <p>4 MS. PETERS: I'm just saying I need a</p> <p>5 bio break, if that's acceptable, Ms. Katsantonis.</p> <p>6 MS. KATSANTONIS: Sure.</p> <p>7 THE VIDEOGRAPHER: We are going off the</p> <p>8 record at 18:21.</p> <p>9 (Recess taken.)</p> <p>10 THE VIDEOGRAPHER: We are back on the</p> <p>11 record at 18:27.</p> <p>12 BY MS. KATSANTONIS:</p> <p>13 Q I want to go back and look at the</p> <p>14 profit and loss statement that I showed you.</p> <p>15 A Which exhibit number is that? Oh, you</p> <p>16 don't know?</p> <p>17 Q I have no idea. You do, it's right</p> <p>18 there.</p> <p>19 A Okay. So Exhibit 8.</p> <p>20 Q Okay.</p> <p>21 A I'll leave them organized.</p> <p>22 Q We were talking about returned checks</p>	<p>160</p> <p>1 MS. PETERS: Objection.</p> <p>2 Q -- the source of the \$495,950 in bank</p> <p>3 charges?</p> <p>4 MS. PETERS: Object to the form of the</p> <p>5 question.</p> <p>6 A I'm sorry.</p> <p>7 MS. PETERS: Is there a question based</p> <p>8 on the document that he's testified he hasn't</p> <p>9 reviewed and doesn't know when it was -- it is</p> <p>10 produced.</p> <p>11 MS. KATSANTONIS: I'm going to start</p> <p>12 clocking your time, Ms. Donne Peters, and subtract</p> <p>13 it from the seven hours.</p> <p>14 A Can you repeat the question?</p> <p>15 (The requested text was read by the</p> <p>16 reporter as follows: "Well, if you wanted to</p> <p>17 explain where those -- the 495,000 charge is, who</p> <p>18 would you call? What would you do to find out the</p> <p>19 source of the \$495,950 in bank charges?")</p> <p>20 A It would be the finance team. They</p> <p>21 would have the records.</p> <p>22 Q Okay. Is there a way on QuickBooks to</p>

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41 (161 to 164)

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1 drill down and see what sums make up the \$495,950?

2 **A I think there should be.**

3 Q Okay. So if I had an electronic copy

4 of QuickBooks I could drill down and find that

5 information?

6 MS. PETERS: Object to the form of the

7 question.

8 **A I am unsure.**

9 Q Okay. And does the finance team --

10 they respond to you, right? They work for you?

11 MS. PETERS: Object to the form.

12 **A At this point, yes.**

13 Q Okay. And who determines which charges

14 to include in the various categories on the profit

15 and loss statement?

16 MS. PETERS: Object to the form.

17 **A The finance team would.**

18 Q So they make a unilateral decision of

19 what line item or how to categorize expenses.

20 MS. PETERS: Object to form.

21 **A I would have to ask them. I don't**

22 **know -- I don't know what their general accounting**

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1 **procedures are to say how to classify something**

2 **as, let's say, advertising verse job verse media**

3 **resolutions.**

4 Q So you're not involved at all in the

5 process of determining what expenses will be

6 categorized under a certain line item in the

7 profit and loss statement?

8 MS. PETERS: Object to form.

9 **A When there is a question or confusion**

10 **or something or like when a vendor raises**

11 **something, then from time to time I'm consulted on**

12 **it --**

13 Q Did --

14 **A -- but -- but that's it.**

15 Q But no? Your answer's no?

16 MS. PETERS: Object to form.

17 **A As a general rule I am not involved in**

18 **day-to-day operations of categories in finance.**

19 Q I'm not asking about day-to-day

20 operations, I'm asking who determines -- do you

21 determine which expenses to include generally

22 under a category? Do you say let's just have

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1 these categories of expenses or let's put these

2 type of costs together and call it bank charges --

3 MS. PETERS: Object to the form.

4 Q -- for example?

5 MS. PETERS: Object to the form.

6 Compound question. Vague.

7 **A Yeah, I'm actually going to agree with**

8 **my counsel on this one. Can you kind of explain**

9 **to me what -- like, what you're talking about**

10 **because I'm a little confused right now.**

11 MR. KOWALCZUK: Before you answer.

12 Counsel, this will be the last question.

13 Q Did you direct your finance team at any

14 time to group bond breach payments and bond

15 premiums together?

16 **A I believe there was a conversation but**

17 **I don't recall all the details behind it.**

18 Q Who would have been involved in that

19 conversation?

20 **A I don't recall.**

21 Q Was it you?

22 **A I believe it was a conversation with**

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1 **Lynn, a member who was there at the time the**

2 **conversation took place.**

3 Q Were you the one directing that the --

4 or advising that the payments should be

5 categorized together?

6 **A I don't believe -- I don't --**

7 MS. PETERS: Object to the form of the

8 question. We've now gone way, way beyond.

9 MS. KATSANTONIS: He's in the middle of

10 his answer. Can you let him finish his answer?

11 MALE SPEAKER: Let him answer. The

12 question's out pending.

13 THE WITNESS: Could you read the

14 question, please?

15 (The requested text was read by the

16 reporter as follows: "Were you the one directing

17 that the -- or advising that the payments should

18 be categorized together?")

19 MS. PETERS: Object to form.

20 **A And which payments were they again?**

21 Q Bond premiums and bond payments.

22 MS. PETERS: Object to form.

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1 CERTIFICATE OF REPORTER - NOTARY PUBLIC

2 I, JUDITH E. BELLINGER, RPR, CRR, the
3 officer before whom the foregoing deposition was
4 taken, do hereby certify that the foregoing
5 transcript is a true and correct record of the
6 testimony given; that said testimony was taken by
7 me and thereafter reduced to typewriting under my
8 direction; that reading and signing was requested;
9 and that I am neither counsel for, related to, nor
10 employed by any of the parties to this case and
11 have no interest, financial or otherwise, in its
12 outcome.

13 IN WITNESS WHEREOF, I have hereunto set
14 my hand and affixed my notarial seal this 28th day
15 of February, 2020.

16 My Commission Expires: September 30, 2020

17

18

19 *Judith E. Bellinger*

20

21 NOTARY PUBLIC IN AND FOR

22 THE COMMONWEALTH OF VIRGINIA

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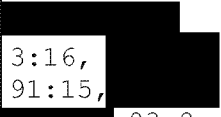

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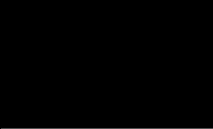
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